TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chap.		Sec.
21.	International Regulations for Preventing Collisions at Sea [Repealed]	1051
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CHAPTER 1—NAVIGABLE WATERS GENERALLY

SUBCHAPTER II—WATERS DECLARED NONNAVIGABLE: CHANGE OF NAME

Sec.
59p. Kenduskeag Stream, Penobscot County, Maine [New].

SUBCHAPTER II—WATERS DECLARED NONNAVIGABLE: CHANGE OF NAME

§ 59p. Kenduskeag Stream, Penobscot County, Maine

The Kenduskeag Stream, a minor tributary of the Penobscot River, located in Penobscot County, in the State of Maine, be, and the same is hereby, declared to be a nonnavigable waterway within the meaning of the Constitution and laws of the United States of America.

(July 11, 1947, ch. 236, § 1, 61 Stat. 316.)

CHAPTER 3—NAVIGATION RULES FOR HARBORS, RIVERS, AND INLAND WATERS GENERALLY

SUBCHAPTER I—PRELIMINARY

§ 154. Adoption of rules for navigation of harbors, rivers, and inland waters

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 157, 356, 1604 of this title.

CHAPTER 4—NAVIGATION RULES FOR GREAT LAKES AND THEIR CONNECTING AND TRIBUTARY WATERS

SUBCHAPTER I—PRELIMINARY

§ 241. Adoption of rules for navigation of Great Lakes, etc.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1604 of this title.

CHAPTER 5—NAVIGATION RULES FOR RED RIVER OF THE NORTH AND RIVERS EMPTYING INTO GULF OF MEXICO AND TRIBUTARIES

SUBCHAPTER I—PRELIMINARY

§ 301. Adoption of rules

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 353, 1604 of this title.

CHAPTER 9—PROTECTION OF NAVIGABLE WATERS AND OF HARBOR AND RIVER IMPROVEMENTS GENERALLY

SUBCHAPTER I—IN GENERAL

§ 401. Construction of bridges, causeways, dams or dikes generally

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 27, 402, 406, 412, 413, 418, 530, 1293a of this title; title 23 section 144; title 42 section 1962d-11a; title 48 section 1399; title 49 section 1655.

§ 407. Deposit of refuse in navigable waters generally

SHORT TITLE

This section is popularly known as the Refuse Act of 1899.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 411, 412, 413, 418, 419, 702i of this title; title 30 section 1292; title 48 section 1399.

§ 426a. Additional investigations concerning erosion of shores of coastal and lake waters; payment of costs; definition of shores

In addition to participating in cooperative investigations and studies with agencies of the various States as authorized in section 426 of this title, it shall be the duty of the Chief of Engineers, through the Coastal Engineering Research Center, to make general investigations with a view to preventing erosion of the shores of the United States by waves and currents and determining the most suitable methods for the protection, restoration, and development of beaches; and to publish from time to time such useful data and information concerning the erosion and protection of beaches and shore lines as the Center may deem to be of value to the people of the United States. The cost of the general investigations authorized by sections 426a to 426d of this title shall be borne wholly by the United States. As used in said sections, the word "shores" includes the shore

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lines of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great Lakes, Lake Champlain, and estuaries and bays directly connected therewith.

(July 31, 1945, ch. 334, § 1, 59 Stat. 508; Nov. 7, 1963, Pub. L. 88-172, § 1, 172 Stat. 304.)

CODIFICATION

Section is set out in this supplement to correct typographical error appearing in the main edition.

SUBCHAPTER VII—DAM INSPECTION PROGRAM

§ 467a. Inspection of dams; exceptions

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 10—ANCHORAGE GROUNDS AND HARBOR REGULATIONS GENERALLY

Sec.
476. Restrictions on tanker traffic in Puget Sound and adjacent waters [New].

§ 476. Restrictions on tanker traffic in Puget Sound and adjacent waters

(a) The Congress finds that—

(1) the navigable waters of Puget Sound in the State of Washington, and the natural resources therein, are a fragile and important national asset;

(2) Puget Sound and the shore area immediately adjacent thereto is threatened by increased domestic and international traffic of tankers carrying crude oil in bulk which increases the possibility of vessel collisions and oil spills; and

(3) it is necessary to restrict such tanker traffic in Puget Sound in order to protect the navigable waters thereof, the natural resources therein, and the shore area immediately adjacent thereto, from environmental harm.

(b) Notwithstanding any other provision of law, on and after October 18, 1977, no officer, employee, or other official of the Federal Government shall, or shall have authority to, issue, renew, grant, or otherwise approve any permit, license, or other authority for constructing, renovating, modifying, or otherwise altering a terminal, dock, or other facility in, on, or immediately adjacent to, or affecting the navigable waters of Puget Sound, or any other navigable waters in the State of Washington east of Port Angeles, which will or may result in any increase in the volume of crude oil capable of being handled at any such facility (measured as of October 18, 1977), other than oil to be refined for consumption in the State of Washington.

(Pub. L. 95-136, § 5, Oct. 18, 1977, 91 Stat. 1168.)

CHAPTER 11—BRIDGES OVER NAVIGABLE WATERS

SUBCHAPTER II—ALTERATION OF BRIDGES

§ 511. Definitions

When used in this subchapter, unless the context indicates otherwise—

[See main edition for text of first and second pars.]

The term "bridge owner" means any State, county, municipality, or other political subdivision, or any corporation, association, partnership, or individual owning, or jointly owning, any bridge, and, when any bridge shall be in the possession or under the control of any trustee, receiver, trustee in a case under title 11, or lessee, such terms shall include both the owner of the legal title and the person or the entity in possession or control of such bridge.

[See main edition for text of last two pars.]

(As amended Nov. 6, 1978, Pub. L. 95-598, title III, § 323, 92 Stat. 2679.)

AMENDMENTS

1978—Pub. L. 95-598 substituted in definition of "bridge owner" the phrase "trustee in a case under title 11" for "trustee in bankruptcy".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

SUBCHAPTER III—GENERAL BRIDGE AUTHORITY

§ 525. Construction and operation of bridges

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 23 section 144.

CHAPTER 12—RIVER AND HARBOR IMPROVEMENTS GENERALLY

SUBCHAPTER V—PROSECUTION OF WORK GENERALLY

§ 622. Contracts, etc., for implementation of projects for improvements and for dredging and related work by private industry; performance of work by federally owned fleet and transition to use of private industry; requirements, standards, and study relating to transition and accompanying reduction of federally owned fleet

(a) The Secretary of the Army, acting through the Chief of Engineers (hereinafter referred to as the "Secretary"), in carrying out projects for improvement of rivers and harbors (other than surveys, estimates, and gagings) shall, by contract or otherwise, carry out such work in the manner most economical and advantageous to the United States. The Secretary shall have dredging and related work done by contract if he determines private industry has the capability to do such work and it can be done at reasonable prices and in a timely manner. During the four-year period which

begins on April 26, 1978, the Secretary may limit the application of the second sentence of this subsection for work for which the federally owned fleet is available to achieve an orderly transition to full implementation of this subsection.

(b) As private industry reasonably demonstrates its capability under subsection (a) of this section to perform the work done by the federally owned fleet, at reasonable prices and in a timely manner, the federally owned fleet shall be reduced in an orderly manner, as determined by the Secretary, by retirement of plant. To carry out emergency and national defense work the Secretary shall retain only the minimum federally owned fleet capable of performing such work and he may exempt from the provisions of this section such amount of work as he determines to be reasonably necessary to keep such fleet fully operational, as determined by the Secretary, after the minimum fleet requirements have been determined. Notwithstanding the preceding sentence, in carrying out the reduction of the federally owned fleet, the Secretary may retain so much of the federally owned fleet as he determines necessary, for so long as he determines necessary, to insure the capability of the Federal Government and private industry together to carry out projects for improvements of rivers and harbors. For the purpose of making the determination required by the preceding sentence the Secretary shall not exempt any work from the requirements of this section. The minimum federally owned fleet shall be maintained to technologically modern and efficient standards, including replacement as necessary. The Secretary is authorized and directed to undertake a study to determine the minimum federally owned fleet required to perform emergency and national defense work. The study, which shall be submitted to Congress within two years after April 26, 1978, shall also include preservation of employee rights of persons presently employed on the existing federally owned fleet.

(As amended Apr. 26, 1978, Pub. L. 95-269, § 1, 92 Stat. 218.)

AMENDMENTS

1978—Pub. L. 95-269 designated existing provision as subsec. (a), and in subsec. (a) as so designated, substituted provisions relating to authority of Secretary of the Army, acting through the Chief of Engineers, to implement improvement projects by contract or otherwise and dredging and related work by contract with private industry, for provisions relating to authority of the Secretary of the Army to apply moneys appropriated for improvements by contract or otherwise and for construction or use of a Government dredging plant by contract, and added subsec. (b).

§ 624. Limitation on improvement work by private contract

(a) Determinations respecting comparision of private contract price with estimation of cost of performance of work by Government plant or by well-equipped contractor

No works of river and harbor improvement shall be done by private contract—

(1) if the Secretary of the Army, acting through the Chief of Engineers, determines that Government plant is reasonably available to perform the subject work and the contract price for doing the work is more than 25 per centum in excess of the estimated comparable cost of doing the work by Government plant; or

(2) in any other circumstance where the Secretary of the Army, acting through the Chief of Engineers, determines that the contract price is more than 25 per centum in excess of what he determines to be a fair and reasonable estimated cost of a well-equipped contractor doing the work.

(b) Considerations involved in determinations of estimation of cost of performance of work by Government plant

In estimating the comparable cost of doing the work under subsection (a)(1) of this section by Government plant the Secretary of the Army, acting through the Chief of Engineers shall, in addition to the cost of labor and materials, take into account proper charges for depreciation of plant, all supervising and overhead expenses, interest on the capital invested in the Government plant (but the rate of interest shall not exceed the maximum prevailing rate being paid by the United States on current issues of bonds or other evidences of indebtedness) and such other Government expenses and charges as the Chief of Engineers determines to be appropriate.

(c) Considerations involved in determinations of estimation of cost of performance of work by well-equipped contractor

In determining a fair and reasonable estimated cost of doing work by private contract under subsection (a)(2) of this section, the Secretary of the Army, acting through the Chief of Engineers, shall, in addition to the cost of labor and materials, take into account proper charges for depreciation of plant, all expenses for supervision, overhead, workmen's compensation, general liability insurance, taxes (State and local), interest on capital invested in plant, and such other expenses and charges the Secretary of the Army, acting through the Chief of Engineers, determines to be appropriate.

(As amended Apr. 26, 1978, Pub. L. 95-269, § 2, 92 Stat. 219.)

AMENDMENTS

1978—Pub. L. 95-269 designated existing provision as subsec. (a), and in subsec. (a) as so designated, substituted provisions relating to determinations by the Secretary of the Army, acting through the Chief of Engineers, respecting contract prices for performance of works of river and harbor improvement by a Government plant or by a well-equipped contractor as a limitation on performance of the work by private contract, for provisions relating to limitation on use of funds for works of river and harbor improvement pursuant to private contract badsed on estimation of cost for performance of work by Government plant and factors constituting cost estimation and added subsecs. (b) and (c).

CHAPTER 15—FLOOD CONTROL

§ 701. Flood control generally

FLOODPLAIN MANAGEMENT

For provisions relating to the reduction of the risk of flood loss, the minimization of the impact of floods

on human safety, health, and welfare, and the management of floodplains, see Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 11296

Ex. Ord. No. 11296, Aug. 10, 1966, 31 F.R. 10663, as amended by Pub. L. 90–608, ch. IV, § 402, Oct. 21, 1968, 82 Stat. 1194, set out as a note under this section, which related to the evaluation of flood hazard in locating federally owned or financed buildings, roads, and other facilities, and in disposing of federal lands and properties, was revoked by Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

§ 701b–4. Administration of surveys; number authorized; reports

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 701f–1. Additional authorization

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 701j. Installation in dams of facilities for future development of hydro-electric power

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 701n. Flood emergencies; extraordinary wind, wave, or water damage to federally authorized hurricane or shore protective structures; emergency supplies of drinking water; drought; well construction and water transportation

(a) There is authorized an emergency fund to be expended in flood emergency preparation, in flood fighting and rescue operations, or in the repair or restoration of any flood control work threatened or destroyed by flood, including the strengthening, raising, extending, or other modification thereof as may be necessary in the discretion of the Chief of Engineers for the adequate functioning of the work for flood control; in the emergency protection of federally authorized hurricane or shore protection being threatened when in the discretion of the Chief of Engineers such protection is warranted to protect against imminent and substantial loss to life and property; in the repair and restoration of any federally authorized hurricane or shore protective structure damaged or destroyed by wind, wave, or water action of other than an ordinary nature when in the discretion of the Chief of Engineers such repair and restoration is warranted for the adequate functioning of the structure for hurricane or shore protection. The Chief of Engineers, in the exercise of his discretion, is further authorized to provide emergency supplies of clean drinking water, on such terms as he determines to be advisable, to any locality which he finds is confronted with a source of contaminated drinking water causing or likely to cause a substantial threat to the public health and welfare of the inhabitants of the locality. The appropriation of such moneys for the initial establishment of this fund and for its replenishment on an annual basis, is authorized: *Provided*, That pending the appropriation of sums to such emergency fund, the Secretary of the Army may allot, from existing flood-control appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, such appropriations to be reimbursed from the appropriation herein authorized when made. The Chief of Engineers is authorized, in the prosecution of work in connection with rescue operations, or in conducting other flood emergency work, to acquire on a rental basis such motor vehicles, including passenger cars and buses, as in his discretion are deemed necessary.

(b)(1) The Secretary, upon a written request for assistance under this paragraph made by any farmer, rancher, or political subdivision within a distressed area, and after a determination by the Secretary that (A) as a result of the drought such farmer, rancher, or political subdivision has an inadequate supply of water, (B) an adequate supply of water can be made available to such farmer, rancher, or political subdivision through the construction of a well, and (C) as a result of the drought such well could not be constructed by a private business, the Secretary, subject to paragraph (3) of this subsection, may enter into an agreement with such farmer, rancher, or political subdivision for the construction of such well.

(2) The Secretary, upon a written request for assistance under this paragraph made by any farmer, rancher, or political subdivision within a distressed area, and after a determination by the Secretary that as a result of the drought such farmer, rancher, or political subdivision has an inadequate supply of water and water cannot be obtained by such farmer, rancher, or political subdivision, the Secretary may transport water to such farmer, rancher, or political subdivision by methods which include, but are not limited to, small-diameter emergency water lines and tank trucks, until such time as the Secretary determines that an adequate supply of water is available to such farmer, rancher, or political subdivision.

(3)(A) Any agreement entered into by the Secretary pursuant to paragraph (1) of this subsection shall require the farmer, rancher, or political subdivision for whom the well is constructed to pay to the United States the reasonable cost of such construction, with interest, over such number of years, not to exceed thirty, as the Secretary deems appropriate. The rate of interest shall be that rate which the

Secretary determines would apply if the amount to be repaid was a loan made pursuant to section 636(b)(2) of title 15.

(B) The Secretary shall not construct any well pursuant to this subsection unless the farmer, rancher, or political subdivision for whom the well is being constructed has obtained, prior to construction, all necessary State and local permits.

(4) The Federal share for the transportation of water pursuant to paragraph (2) of this subsection shall be 100 per centum.

(5) For purposes of this subsection—

(A) the term "construction" includes construction, reconstruction, or repair;

(B) the term "distressed area" means an area which the Secretary determines due to drought conditions has an inadequate water supply which is causing, or is likely to cause, a substantial threat to the health and welfare of the inhabitants of the area including threat of damage or loss of property;

(C) the term "political subdivision" means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over the water supply of such public body;

(D) the term "reasonable cost" means the lesser of (i) the cost to the Secretary of constructing a well pursuant to this subsection exclusive of the cost of transporting equipment used in the construction of wells, or (ii) the cost to a private business of constructing such well;

(E) the term "Secretary" means the Secretary of the Army, acting through the Chief of Engineers; and

(F) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(As amended June 20, 1977, Pub. L. 95-51, § 2, 91 Stat. 233.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-51 designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 95-51 added subsec. (b).

CHAPTER 16—LIGHTHOUSES

§§ 773, 774

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3784, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 775. Payments nonassignable and exempt from process

CROSS REFERENCES

Enforcement of legal obligations to provide child support and make alimony payments, see section 659 of Title 42, The Public Health and Welfare.

§ 776. Payment out of Civil Service retirement and disability fund

Annuities authorized by sections 771 to 775 of this title may, on and after October 10, 1978, be paid out of the Civil Service retirement and disability fund.

(Pub. L. 95-429, title IV, § 401, Oct. 10, 1978, 92 Stat. 1007.)

SIMILAR PROVISIONS

Section is from the Treasury, Postal Service, and General Government Appropriations Act, 1979, Pub. L. 95-429. Similar provisions were contained in the following prior appropriations acts:

Pub. L. 95-81, title IV, § 401, July 31, 1977, 91 Stat. 347.

Pub. L. 94-363, title IV, § 401, July 14, 1976, 90 Stat. 969.

CHAPTER 17—NATIONAL OCEAN SURVEY

SUBCHAPTER I—GENERAL PROVISIONS

Sec.

857-13. National Advisory Committee on Oceans and Atmosphere [New].
857-14. Membership, terms, and duties [New].
(a) Membership.
(b) Terms.
(c) Chairman.
(d) Duties.
857-15. Reports [New].
(a) In general.
(b) Review by Secretary.
(c) Annual report submittal.
857-16. Compensation and travel expenses [New].
857-17. Interagency cooperation and assistance [New].
(a) Liaison.
(b) Agency assistance.
(c) Administrative assistance.
857-18. Authorization of appropriations [New].

SUBCHAPTER I—GENERAL PROVISIONS

§ 851. Commissioned officers; authorized number

There are authorized in the National Oceanic and Atmospheric Administration 399 commissioned officers on the active list.

(Pub. L. 95-431, title III, § 301, Oct. 10, 1978, 92 Stat. 1033.)

SHORT TITLE

Pub. L. 95-63, § 1, July 5, 1977, 91 Stat. 265 provided: "That this Act [enacting sections 857-13 to 857-18 of this title, repealing sections 857-6 to 857-12 of this title, and enacting a provision set out as a note under section 857-13 of this title] may be cited as the 'National Advisory Committee on Oceans and Atmosphere Act of 1977'."

SIMILAR PROVISIONS

Section is from the Department of State, Justice, and Commerce, The Judiciary, and Related Agencies Appropriation Act, 1979. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 95-86, title III, § 301, Aug. 2, 1977, 91 Stat. 431.

Pub. L. 94-362, title III, § 301, July 14, 1976, 90 Stat. 949.

§§ 857-6 to 857-12. Repealed. Pub. L. 95-63, § 7(a), July 5, 1977, 91 Stat. 267

Section 857-6, Pub. L. 92-125, § 1, Aug. 16, 1971, 85 Stat. 344, established the National Advisory Commit-

tee on Oceans and Atmosphere. See section 857-13 of this title.

Section 857-7, Pub. L. 92-125, § 2, Aug. 16, 1971, 85 Stat. 344, provided for the membership, terms of office, duties, and Chairman and Vice Chairman of the Committee. See section 857-14 of this title.

Section 857-8, Pub. L. 92-125, § 3, Aug. 16, 1971, 85 Stat. 344, provided for the designation of a senior policy official of Federal departments and agencies to assist the Committee. See section 857-17(a) of this title.

Section 857-9, Pub. L. 92-125, § 4, Aug. 16, 1971, 85 Stat. 344; Pub. L. 94-69, § 2, Aug. 5, 1975, 89 Stat. 384, provided for an annual report by the Committee. See section 857-15 of this title.

Section 857-10, Pub. L. 92-125, § 5, Aug. 16, 1971, 85 Stat. 344, provided for the compensation and travel expenses of Committee members. See section 857-16 of this title.

Section 857-11, Pub. L. 92-125, § 6, Aug. 16, 1971, 85 Stat. 345, provided for assistance to the Committee by Federal departments and agencies. See section 857-17 of this title.

Section 857-12, Pub. L. 92-125, § 7, Aug. 16, 1971, 85 Stat. 345; Pub. L. 92-567, Oct. 25, 1972, 86 Stat. 1181; Pub. L. 94-69, § 1, Aug. 5, 1975, 89 Stat. 384, authorised appropriations for operation of the Committee. See section 857-18 of this title.

§ 857-13. National Advisory Committee on Oceans and Atmosphere

There is hereby established a committee of 18 members to be known as the National Advisory Committee on Oceans and Atmosphere (hereinafter in sections 857-13 to 857-18 of this title referred to as the "Committee").

(Pub. L. 95-63, § 2, July 5, 1977, 91 Stat. 265.)

Prior Provisions

A provision similar to that contained in this section, which established a National Advisory Committee on Oceans and Atmosphere with a membership of twenty-five, was contained in section 857-6 of this title, prior to repeal of that section by section 7(a) of Pub. L. 95-63.

Short Title

For short title of Pub. L. 95-63, see section 1 of Pub. L. 95-63, set out as a Short Title note under section 851 of this title.

Transfer of Personnel, Positions, Records, and Funds

Section 7(b) of Pub. L. 95-63 provided that: "All personnel, positions, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions specified by the Act of August 16, 1971 [former sections 857-6 to 857-12 of this title] (establishing an advisory committee on oceans and atmosphere), are hereby transferred to the National Advisory Committee on Oceans and Atmosphere established by this Act [sections 857-13 to 857-18 of this title]. The personnel transferred under this subsection shall be so transferred without reduction in classification or compensation except, that after such transfer, such personnel shall be subject to reductions in classification or compensation in the same manner, to the same extent, and according to the same procedure as other employees of the United States classified and compensated according to the General Schedule in title 5, United States Code."

Termination of Advisory Committees

Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

Section Referred to in Other Sections

This section is referred to in sections 857-17, 857-18 of this title.

§ 857-14. Membership

(a) Appointment and qualifications

The members of the Committee, who may not be full-time officers or employees of the United States, shall be appointed by the President. Members shall be appointed only from among individuals who are eminently qualified by way of knowledge and expertise in the following areas of direct concern to the Committee—

(1) one or more of the disciplines and fields included in marine science and technology, marine industry, marine-related State and local governmental functions, coastal zone management, or other fields directly appropriate for consideration of matters of ocean policy; or

(2) one or more of the disciplines and fields included in atmospheric science, atmospheric-related State and local governmental functions, or other fields directly appropriate for consideration of matters of atmospheric policy.

(b) Terms

(1) The term of office of a member of the Committee shall be 3 years; except that of the original appointees, 6 shall be appointed for a term to expire on July 1, 1979, 6 shall be appointed for a term to expire on July 1, 1980, and 6 shall be appointed for a term to expire on July 1, 1981.

(2) Any individual appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. No individual may be reappointed to the Committee for more than one additional 3-year term. A member may serve after the date of the expiration of the term of office for which appointed until his or her successor has taken office, or until 90 days after such date, whichever is earlier. The terms of office for members first appointed after July 5, 1977, shall begin on July 1, 1977.

(c) Chairman

The President shall designate one of the members of the Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

(d) Duties

The Committee shall—

(1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; and

(2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration.

(Pub. L. 95-63, § 3, July 5, 1977, 91 Stat. 265, amended Pub. L. 95-304, § 1(1), June 29, 1978, 92 Stat. 347.)

PRIOR PROVISIONS

Provisions similar to those contained in this section, which related to membership, terms, and duties of the National Advisory Committee on Oceans and Atmosphere as originally established on Aug. 16, 1971, were contained in section 857-7 of this title prior to repeal of that section by section 7(a) of Pub. L. 95-63.

AMENDMENTS

1978—Subsec. (b)(1). Pub. L. 95-304 substituted provisions authorizing terms of members to expire on July 1, 1979, July 1, 1980, and July 1, 1981, respectively, for provisions authorizing terms of members to be for 1 year, 2 years, and 3 years, respectively.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-13, 857-17, 857-18 of this title.

§ 857-15. Reports

(a) In general

The Committee shall submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and shall submit such other reports as may from time to time be requested by the President or the Congress.

(b) Review by Secretary

Each annual report shall also be submitted to the Secretary of Commerce, who shall, within 60 days after receipt thereof, transmit his or her comments and recommendations to the President and to the Congress.

(c) Annual report submittal

The annual report required under subsection (a) of this section shall be submitted on or before June 30 of each year, beginning with June 30, 1978.

(Pub. L. 95-63, § 4, July 5, 1977, 91 Stat. 266.)

PRIOR PROVISIONS

A provision similar to that contained in this section, which required an annual report, beginning June 30, 1972, from the National Advisory Committee on Oceans and Atmosphere as originally established on Aug. 16, 1971, was contained in section 857-9 of this title prior to repeal of that section by section 7(a) of Pub. L. 95-63.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-13, 857-17, 857-18 of this title.

§ 857-16. Compensation and travel expenses

Members of the Committee shall each be entitled to receive compensation of $100 per day for each day (including traveltime) during which they are engaged in the actual performance of the duties of the Committee. In addition, while away from their homes or regular places of business in the performance of the duties of the Committee, each member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5.

(Pub. L. 95-63, § 5, July 5, 1977, 91 Stat. 266.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in text, was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and as so amended does not contain a subsec. (b).

PRIOR PROVISIONS

A provision similar to that contained in this section, which authorized compensation and travel expenses for members of the National Advisory Committee on Oceans and Atmosphere as originally established on Aug. 16, 1971, was contained in section 857-10 of this title prior to repeal of that section by section 7(a) of Pub. L. 95-63.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-13, 857-17, 857-18 of this title.

§ 857-17. Interagency cooperation and assistance

(a) Liaison

The head of each department or agency of the Federal Government concerned with marine and atmospheric matters shall designate a senior policy official to participate as observer in the work of the Committee and offer necessary assistance.

(b) Agency assistance

The Committee is authorized to request from the head of any department, agency, or independent instrumentality of the Federal Government any information and assistance it deems necessary to carry out the functions assigned under sections 857-13 to 857-18 of this title. The head of each such department, agency, or instrumentality is authorized to cooperate with the Committee, and, to the extent permitted by law, to furnish such information and assistance to the Committee upon request made by the Chairman, without reimbursement for such services and assistance.

(c) Administrative assistance

The Secretary of Commerce shall make available to the Committee such staff, information, personnel, and administrative services and assistance as may reasonably be required to carry out the provisions of sections 857-13 to 857-18 of this title.

(Pub. L. 95-63, § 6, July 5, 1977, 91 Stat. 266.)

PRIOR PROVISIONS

Provisions similar to those contained in this section which required the designation of senior policy officials as observers, directed the Secretary of Commerce to provide administrative assistance, and authorized requests for assistance from Federal agencies by the Federal Advisory Committee on Oceans and Atmosphere as originally established on Aug. 16, 1971, were contained in sections 857-8 and 857-11 of this title prior to repeal of those sections by section 7(a) of Pub. L. 95-63.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-13, 857-18 of this title.

§ 857-18. Authorization of appropriations

There are authorized to be appropriated for purposes of carrying out sections 857-13 to 857-18 of this title not to exceed $520,000 for the fiscal year ending September 30, 1978, and $572,000 for the fiscal year ending September 30, 1979. Such sums as may be appropriated under this section shall remain available until expended.

(Pub. L. 95-63, § 8, July 5, 1977, 91 Stat. 267, amended Pub. L. 95-304, § 1(2), June 29, 1978, 92 Stat. 347.)

PRIOR PROVISIONS

Provisions similar to those contained in this section which authorized appropriations, beginning with an authorization of $200,000 for the fiscal year ending June 30, 1972, for the operation of the National Advisory Committee on Oceans and Atmosphere as originally established on Aug. 16, 1971, were contained in section 857-12 of this title prior to repeal of that section by section 7(a) of Pub. L. 95-63.

AMENDMENTS

1978—Pub. L. 95-304 added provisions authorizing appropriations for the fiscal year ending Sept. 30, 1979.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-13, 857-17 of this title.

CHAPTER 18—LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION

§ 917. Lien against compensation

(a) Repealed. Pub. L. 95-598, title III, § 324, Nov. 6, 1978, 92 Stat. 2679

[See main edition for text of (b)]

(As amended Nov. 6, 1978, Pub. L. 95-598, title III, § 324, 92 Stat. 2679.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-598 repealed provision for lien of person entitled to compensation without limit of amount against assets of carrier or employer and for preference and priority in distribution of assets of such carrier or employer, or both upon insolvency, bankruptcy, or reorganization in bankruptcy proceedings of the carrier or employer, or both.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§ 919. Procedure in respect of claims

[See main edition for text of (a) to (c)]

(d) Provisions governing conduct of hearing; administrative law judges

Notwithstanding any other provisions of this chapter, any hearing held under this chapter shall be conducted in accordance with the provisions of section 554 of title 5. Any such hearing shall be conducted by a[1] administrative law judge qualified under section 3105 of that title. All powers, duties, and responsibilities vested by this chapter, on October 27, 1972, in the deputy commissioners with respect to such hearings shall be vested in such administrative law judges.

[See main edition for text of (e) to (h)]

(As amended Mar. 27, 1978, Pub. L. 95-251, § 2(a)(10), 92 Stat. 183.)

AMENDMENTS

1978—Subsec. (d). Pub. L. 95-251 substituted references to administrative law judges for references to hearing examiners.

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[1] So in original. Probably should be "an".

§ 921. Review of compensation orders

[See main edition for text of (a)]

(b) Benefits Review Board; establishment; members; chairman; quorum; voting; questions reviewable; record; conclusiveness of findings; stay of payments; remand

[See main edition for text of (1) to (3)]

(4) The Board may, on its own motion or at the request of the Secretary, remand a case to the administrative law judge for further appropriate action. The consent of the parties in interest shall not be a prerequisite to a remand by the Board.

[See main edition for text of (c) to (e)]

(As amended Mar. 27, 1978, Pub. L. 95-251, § 2(a)(10), 92 Stat. 183.)

AMENDMENTS

1978—Subsec. (b)(4). Pub. L. 95-251 substituted "administrative law judge" for "hearing examiner".

§ 941. Safety rules and regulations

[See main edition for text of (a) to (d)]

(e) Jurisdiction to restrain violations

The United States district courts shall have jurisdiction for cause shown, in any action brought by the Secretary, represented as provided in section 921a of this title, to restrain violations of this section or of any rule, regulation, or order of the Secretary adopted to carry out the provisions of this section.

[See main edition for text of (f) and (g)]

CODIFICATION

As originally enacted, subsec. (e) contained the phrase ", together with the District Court for the Territory of Alaska," following "the United States district courts". The phrase has been deleted as superfluous in view of Pub. L. 85-508, July 7, 1958, 72 Stat. 339 (set out as a note preceding section 21 of Title 48, Territories and Insular Possessions) which admitted Alaska into the union and enacted section 81A of Title 28, Judiciary and Judicial Procedure, constituting Alaska as one judicial district and in view of section 132 of Title 28 which provides that: "There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district."

CHAPTER 19—SAINT LAWRENCE SEAWAY

§ 983. Functions of Corporation

TERMINATION OF FEDERAL POWER COMMISSION

The Federal Power Commission, referred to in subsecs. (a)(2) and (b), was terminated and the functions, personnel, property, funds, etc., thereof were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 987. Services and facilities of other agencies

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3784, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 988. Rates of charges or tolls

TERMINATION OF FEDERAL POWER COMMISSION

The Federal Power Commission, referred to in subsec. (a), was terminated and the functions, personnel, property, funds, etc., thereof were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 990. Offenses and penalties

[See main edition for text of (a)]

(b) Frauds and false entries, reports, or statements

Any person who, with intent to defraud the Corporation, or to deceive any director, officer, or employee of the Corporation or any officer or employee of the United States, (1) makes any false entry in any book of the Corporation, or (2) makes any false report or statement for the Corporation, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

[See main edition for text of (c)]

CODIFICATION

Subsec. (b) is set out in this supplement to correct a typographical error in the main edition.

CHAPTER 20—POLLUTION OF THE SEA BY OIL

§ 1004a. United States tankers; construction standards

[See main edition for text of (a)]

(b) Building contracts placed or keel laid before effective date

Every tanker to which this chapter applies and built in the United States and for which the building contract is placed, or in the absence of a building contract the keel of which is laid or which is at a similar state of construction, before the effective date of this section, shall, within two years after that date, comply with the provisions of annex C of the convention if—

(1) the delivery of the tanker is after January 1, 1977; or

(2) the delivery of the tanker is not later than January 1, 1977, and the building contract is placed after January 1, 1972, or in cases where no building contract has previously been placed, the keel is laid or the tanker is at a similar stage of construction, after June 30, 1972.

[See main edition for text of (c) to (e)]

CODIFICATION

Subsec. (b) is set out in this supplement to correct a typographical error in the main edition.

CHAPTER 21—INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA

SUBCHAPTER I—GENERAL PROVISIONS

§ 1051. Repealed. Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311

Section, Pub. L. 88-131, § 1, Sept. 24, 1963, 77 Stat. 194, authorized the President to proclaim the International Regulations for Preventing Collisions at Sea. See section 1602 of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 15, 1977, see section 10 of Pub. L. 95-75, set out in part as a note under section 1601 of this title.

REPEALS; EFFECTIVE DATE; REFERENCES IN OTHER LAWS TO ACT OCTOBER 11, 1951

Pub. L. 88-131, § 3, Sept. 24, 1963, 77 Stat. 194, repealed by section 10 of Pub. L. 95-75, provided for the repeal of Act Oct. 11, 1951, ch. 495, 65 Stat. 406, which had adopted the prior regulations [set out in former sections 144 et seq. of this title] and provided for the effective date of this chapter. See section 10 of Pub. L. 95-75, set out in part as a note under section 1601 of this title.

§§ 1052, 1053. Repealed. Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311

Section 1052, Pub. L. 88-131, § 2, Sept. 24, 1963, 77 Stat. 194, provided for certification for alternative compliance covering Navy and Coast Guard vessels of special construction or purpose. See section 1605 of this title.

Section 1053, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 195, constituted an introductory statement for the regulations. See section 1602 of this title.

EFFECTIVE DATE OF REPEAL

Sections repealed effective July 15, 1977, see section 10 of Pub. L. 95-75, set out in part as a note under section 1601 of this title.

SUBCHAPTER II—PRELIMINARY AND DEFINITIONS

§ 1061. Repealed. Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311

Section, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 195, generally described the scope of sections 1061 to 1094.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 15, 1977, see section 10 of Pub. L. 95-75, set out in part as a note under section 1601 of this title.

SUBCHAPTER III—LIGHTS AND SHAPES

§§ 1062 to 1074. Repealed. Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311

Section 1062, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 196, set out the requirements for vessels while under way.

Section 1063, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 197, set the requirements for towing or pushing other vessels or seaplanes.

Section 1064, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 197, related to vessels and seaplanes not under command, and vessels engaged in certain operations.

Section 1065, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 198, related to sailing vessels under way, vessels or seaplanes being towed, and vessels being pushed ahead.

Section 1066, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 199, related to vessels in bad weather.

Section 1067, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 199, related to substitute lights for power-driven vessels towing or pushing other vessels, vessels under oars or sails, vessels being towed or pushed ahead, and rowing boats.

Section 1068, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 200, related to pilot-vessels on and off duty.

Section 1069, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 201, related to fishing vessels and trawling vessels.

Section 1070, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 202, related to stern and tail lights.

Section 1071, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 202, related to vessels and sea lanes at anchor and aground.

Section 1072, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 203, provided for the use of additional lights and signals when necessary.

Section 1073, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 203, related to ships of war, convoy vessels, fishing vessels, seaplanes in water, and naval and military vessels and seaplanes of special construction.

Section 1074, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 203, related to vessels proceeding under sail when also propelled by machinery.

EFFECTIVE DATE OF REPEAL

Sections repealed effective July 15, 1977, see section 10 of Pub. L. 95-75, set out in part as a note under section 1601 of this title.

SUBCHAPTER IV—SOUND SIGNALS AND CONDUCT IN RESTRICTED VISIBILITY

§§ 1075 to 1077. Repealed. Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311

Section 1075, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 203, set out general considerations concerning radar.

Section 1076, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 203, related to sound signals.

Section 1077, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 203, related to speed in weather restricting visibility.

EFFECTIVE DATE OF REPEAL

Sections repealed effective July 15, 1977, see section 10 of Pub. L. 95-75, set out in part as a note under section 1601 of this title.

SUBCHAPTER V—STEERING AND SAILING RULES

§§ 1078 to 1089. Repealed. Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311

Section 1078, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 205, set out the general considerations related to steering and sailing.

Section 1079, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 205, related to sailing vessels approaching one another.

Section 1080, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 205, related to power-driven vessels meeting end on.

Section 1081, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 206, related to power-driven vessels crossing.

Section 1082, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 206, related to vessels or seaplanes meeting.

Section 1083, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 206, related to vessels having the right of way and the duty in aiding to avert a collision.

Section 1084, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 206, related to the duty to take positive action to keep out of the way.

Section 1085, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 206, related to the duty to slacken speed, stop, or reverse.

Section 1086, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 206, related to the duty of the overtaking vessels to keep out of the way.

Section 1087, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 207, related to the duties of power-driven vessels in narrow channels.

Section 1088, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 207, related to the right-of-way of fishing vessels.

Section 1089, Pub. L. 88-131, Sept. 24, 1963, 77 Stat. 207, related to the departure from rules in special circumstances to avoid immediate danger.

EFFECTIVE DATE OF REPEAL

Sections repealed effective July 15, 1977, see section 10 of Pub. L. 95-75, set out in part as a note under section 1601 of this title.

SUBCHAPTER VI—SOUND SIGNALS FOR VESSELS IN SIGHT OF ONE ANOTHER

§ 1090. Repealed. Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311

Section, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 207, related to sound signals indicating course.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 15, 1977, see section 10 of Pub. L. 95-75, set out in part as a note under section 1601 of this title.

SUBCHAPTER VII—MISCELLANEOUS RULES

§§ 1091 to 1093. Repealed. Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311

Section 1091, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 208, related to additional precautions.

Section 1092, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 208, related to rules for harbours and inland navigation.

Section 1093, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 208, related to distress signals.

EFFECTIVE DATE OF REPEAL

Sections repealed effective July 15, 1977, see section 10 of Pub. L. 95-75, set out in part as a note under section 1601 of this title.

SUBCHAPTER VIII—ANNEX TO RULES

§ 1094. Repealed. Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311

Section, Pub. L. 88-131, § 4, Sept. 24, 1963, 77 Stat. 209, set out general considerations and recommendations on the use of radar information as an aid to avoiding collisions at sea.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 15, 1977, see section 10 of Pub. L. 95-75, set out in part as a note under section 1601 of this title.

CHAPTER 22—SEA GRANT COLLEGES AND MARINE SCIENCE DEVELOPMENT

SUBCHAPTER II—NATIONAL SEA GRANT COLLEGE PROGRAM

Sec.
1130. Biennial report on activities.
(a) Biennial report.
(b) Evaluation.

SUBCHAPTER II—NATIONAL SEA GRANT COLLEGE PROGRAM

§ 1121. Congressional declaration of policy

(a) Findings

The Congress finds and declares the following:

[See main edition for text of (1) and (2)]

(3) The National Oceanic and Atmospheric Administration, through the national sea grant college program, offers the most suitable locus and means for such commitment and involvement through the promotion of activities that will result in greater such understanding, assessment, development, utilization, and conservation. Continued and increased Federal support of the establishment, development, and operation of programs and projects by sea grant colleges, sea grant regional consortia, institutions of higher education, institutes, laboratories, and other appropriate public and private entities is the most cost-effective way to promote such activities.

[See main edition for text of (b) and (c)]

(As amended Pub. L. 95-428, § 2(b), Oct. 7, 1978, 92 Stat. 999.)

AMENDMENTS

1978—Subsec. (a)(3). Pub. L. 95-428 substituted "national sea grant college program" for "national sea grant program".

SHORT TITLE

Section 201 of Pub. L. 89-454, as added by section 1 of Pub. L. 89-688, and amended by Pub. L. 94-461, § 2, Oct. 8, 1976, 90 Stat. 1961; Pub. L. 95-428, § 2(a), Oct. 7, 1978, 92 Stat. 999, provided that: "This title [which enacted this subchapter] may be cited as the 'National Sea Grant College Program Act'."

§ 1122. Definitions

As used in this subchapter—

[See main edition for text of (1) and (2)]

(3) The term "Director" means the Director of the national sea grant college program, appointed pursuant to section 1123(b) of this title.

[See main edition for text of (4) to (14)]

(As amended Pub. L. 95-428, § 2(b), Oct. 7, 1978, 92 Stat. 999.)

AMENDMENTS

1978—Pub. L. 95-428 substituted "national sea grant college program" for "national sea grant program".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1124a, 1702 of this title; title 42 section 1875.

§ 1123. Establishment and administration of program

(a) Maintenance within Administration; component elements

The Secretary shall maintain, within the Administration, a program to be known as the national sea grant college program. The national sea grant college program shall consist of the financial assistance and other activities provided for in this subchapter. The Secretary shall establish long-range planning guidelines and priorities for, and adequately evaluate, this program.

(b) Appointment and compensation of Director

(1) The Secretary shall appoint a Director of the national sea grant college program who shall be a qualified individual who has—

[*See main edition for text of (A) and (B), (2)*]

(c) Duties of Director

The Director shall administer the national sea grant college program subject to the supervision of the Secretary and the Administrator. In addition to any other duty prescribed by law or assigned by the Secretary, the Director shall—

[*See main edition for text of (1)*]

(2) advise the Administrator with respect to the expertise and capabilities which are available within or through the national sea grant college program, and provide (as directed by the Administrator) those which are or could be of use to other offices and activities within the Administration;

[*See main edition for text of (3)*]

(4) encourage other Federal departments, agencies, and instrumentalities to use and take advantage of the expertise and capabilities which are available through the national sea grant college program, on a cooperative or other basis;

[*See main edition for text of (5) and (6)*]

(d) Powers of Secretary

To carry out the provisions of this subchapter, the Secretary may—

[*See main edition for text of (1) to (4)*]

(5) accept donations and voluntary and uncompensated services, notwithstanding section 665(b) of title 31;

(6) accept funds from other Federal departments, agencies (including agencies within the Administration), and instrumentalities to pay for grants made, and contracts entered into, by the Secretary under section 1124(a) of this title; and

(7) issue such rules and regulations as may be necessary and appropriate.

(As amended Pub. L. 95–428, §§ 2(b), 3(1), Oct. 7, 1978, 92 Stat. 999.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–428, § 2(b), substituted "national sea grant college program" for "national sea grant program" in two instances.

Subsec. (b)(1). Pub. L. 95–428, § 2(b), substituted "national sea grant college program" for "national sea grant program".

Subsec. (c). Pub. L. 95–428, § 2(b), substituted in provision preceding par. (1) and in pars. (2), and (4), "national sea grant college program" for "national sea grant program".

Subsec. (d)(6). Pub. L. 95–428, § 3(1)(C), added par. (6). Former par. (6) redesignated (7).

Subsec. (d)(7). Pub. L. 95–428, § 3(1)(B), redesignated former par. (6) as (7).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1122, 1124, 1128 of this title.

§ 1124. Program or project grants and contracts

(a) Authorization; purposes; limitation on amount

The Secretary may make grants and enter into contracts under this subsection to assist any sea grant program or project if the Secretary finds that such program or project will—

(1) implement the objective set forth in section 1121(b) of this title; and

(2) be responsive to the needs or problems of individual States or regions.

The total amount paid pursuant to any such grant or contract may equal 66⅔ percent, or any lesser percent, of the total cost of the sea grant program or project involved; except that this limitation shall not apply in the case of grants or contracts paid for with funds accepted by the Secretary under section 1123(d)(6) of this title.

[*See main edition for text of (b) to (d)*]

(As amended Pub. L. 95–428, § 3(2), Oct. 7, 1978, 92 Stat. 999.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–428 made the percentage limitation inapplicable to grants or contracts paid for with funds accepted by the Secretary under section 1123(d)(6) of this title.

§ 1124a. Contracts and grants for international cooperation

(a) Authorization; purposes

The Secretary of Commerce (hereafter in this section referred to as the "Secretary") may enter into contracts and make grants under this section to—

[*See main edition for text of (1)*]

(2) promote the exchange among the United States and foreign nations (including, but not limited to, developing foreign nations) of information and data with respect to the assessment, development, utilization, and conservation of such resources.

[*See main edition for text of (b)*]

(c) Authorization of appropriations

There are authorized to be appropriated for purposes of carrying out this section not to exceed the following amounts:

(1) $3,000,000 for each of fiscal years 1977, 1978, and 1979.

(2) $5,000,000 for fiscal year 1980.

Such sums as may be appropriated under this section shall remain available until expended.

(As amended Pub. L. 95–58, § 2, June 29, 1977, 91 Stat. 254. Pub. L. 95–428, § 4(2), (3), Oct. 7, 1978, 92 Stat. 1000.)

AMENDMENTS

1978—Subsec. (a)(2). Pub. L. 95–428, § 4(2), substituted "exchange among the United States and foreign nations (including, but not limited to, developing foreign nations)" for "international exchange".

Subsec. (c). Pub. L. 95–428, § 4(3), substituted appropriations authorization of $3,000,000 for fiscal years 1977, through 1979, for prior $3,000,000 authorization for fiscal years ending Sept. 30, 1977, and 1978, and authorized appropriation of $5,000,000 for fiscal year 1980.

1977—Subsec. (c). Pub. L. 95–58 substituted "each of the fiscal years ending September 30, 1977, and September 30, 1978" for "the fiscal year ending September 30, 1977".

§ 1125. National project grants or contracts

[See main edition for text of (a) and (b)]

(c) Authorization of appropriations

There are authorized to be appropriated for purposes of carrying this section not to exceed the following amounts:

(1) $5,000,000 for each of fiscal years 1977, 1978, and 1979.

(2) $7,000,000 for fiscal year 1980.

Such sums as may be appropriated pursuant to this subsection shall remain available until expended. The amounts obligated to be expended for the purposes set forth in subsection (a) of this section shall not, in any fiscal year, exceed an amount equal to 10 percent of the sums appropriated for such year pursuant to section 1131 of this title.

(As amended Pub. L. 95-58, § 1, June 29, 1977, 91 Stat. 254; Pub. L. 95-428, § 3(3), Oct. 7, 1978, 92 Stat. 999.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-428 substituted appropriations authorization of $5,000,000 for fiscal years 1977, through 1979, for prior $5,000,000 authorization for fiscal years ending Sept. 30, 1977, and 1978, and authorized appropriation of $7,000,000 for fiscal year 1980.

1977—Subsec. (c). Pub. L. 95-58 substituted "each of the fiscal years ending September 30, 1977, and September 30, 1978" for "the fiscal year ending September 30, 1977".

§ 1130. Biennial report on activities

(a) Biennial report

The Secretary shall submit to the Congress and the President, not later than February 15, 1980, and not later than February 15 of every even-numbered year thereafter, a report on the activities of, and the outlook for, the national sea grant college program.

(b) Evaluation

The Director of the Office of Management and Budget and the Director of the Office of Science and Technology Policy, in the Executive Office of the President, shall have the opportunity to review each report prepared pursuant to subsection (a) of this section. Such Directors may submit, for inclusion in such report, comments and recommendations and an independent evaluation of the national sea grant college program. Such material shall be submitted to the Secretary not later than February 1 of the year in which the report concerned is to be submitted under subsection (a) of this section, and the Secretary shall cause it to be published as a separate section in such report.

(As amended Pub. L. 95-428, §§ 2(b), 3(4)(B), (C), Oct. 7, 1978, 92 Stat. 999.)

CODIFICATION

Amendment of subsec. (a) of this section by section 2(b) of Pub. L. 95-428, which substituted "national sea grant college program" for "national sea grant program", was executed subsequent to the amendment to subsec. (a) by section 3(4)(B) of Pub. L. 95-428, which in amending subsec. (a) continued reference to the national sea grant program, in view of the general amendment of this subchapter by Pub. L. 95-428, which substituted references to national sea grant college program for references to the national sea grant program.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-428, §§ 2(b), 3(4)(B), substituted "national sea grant college program" for "national sea grant program" and "February 15, 1980, and not later than February 15 of every even-numbered year thereafter" for "February 15 of each year". See Codification note set out above.

Subsec. (b). Pub. L. 95-428, §§ 2(b), 3(4)(C), substituted "national sea grant college program" for "national sea grant program", "submitted" for "transmitted", "February 1 of the year in which the report concerned is to be submitted under subsection (a) of this section" for "February 1 of each year" and "separate section in such report" for "separate section in the annual report submitted pursuant to subsection (a) of this section".

§ 1131. Authorization of appropriations

There are authorized to be appropriated for purposes of carrying out the provisions of this subchapter (other than section 1125 of this title) not to exceed the following amounts:

(1) $50,000,000 for each of fiscal years 1977 and 1978.

(2) $55,000,000 for each of fiscal years 1979 and 1980.

Such sums as may be appropriated under this section shall remain available until expended.

(As amended Pub. L. 95-58, § 1, June 29, 1977, 91 Stat. 254; Pub. L. 95-428, § 3(5), Oct. 7, 1978, 92 Stat. 1000.)

AMENDMENTS

1978—Pub. L. 95-428 substituted appropriations authorization of $50,000,000 for fiscal years 1977, and 1978, for prior $50,000,000 authorization for fiscal years ending Sept. 30, 1977, and 1978, and authorized appropriation of $55,000,000 for fiscal years 1979 and 1980.

1977—Pub. L. 95-58 substituted "each of the fiscal years ending September 30, 1977, and September 30, 1978" for "the fiscal year ending September 30, 1977".

CHAPTER 25—PORTS AND WATERWAYS SAFETY PROGRAM

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§ 1221. Statement of policy

The Congress finds and declares—

(a) that navigation and vessel safety and protection of the marine environment are matters of major national importance;

(b) that increased vessel traffic in the Nation's ports and waterways creates substantial hazard to life, property, and the marine environment;

(c) that increased supervision of vessel and port operations is necessary in order to—

(1) reduce the possibility of vessel or cargo loss, or damage to life, property, or the marine environment;

(2) prevent damage to structures in, on, or immediately adjacent to the navigable waters of the United States or the resources within such waters;

(3) insure that vessels operating in the navigable waters of the United States shall comply with all applicable standards and requirements for vessel construction, equipment, manning, and operational procedures; and

(4) insure that the handling of dangerous articles and substances on the structures in, on, or immediately adjacent to the navigable waters of the United States is conducted in accordance with established standards and requirements; and

(d) that advance planning is critical in determining proper and adequate protective measures for the Nation's ports and waterways and the marine environment, with continuing consultation with other Federal agencies, State representatives, affected users, and the general public, in the development and implementation of such measures.

(Pub. L. 92-340, § 2, formerly title I, § 101, July 10, 1972, 86 Stat. 424, renumbered and amended Pub. L. 95-474, § 2, Oct. 17, 1978, 92 Stat. 1471.)

Amendments

1978—Pub. L. 95-474 substituted provision relating to Congressional declaration of findings for provision relating to the authority of the Secretary of the department in which the Coast Guard is operating to prevent damage to vessels, bridges, and other structures and to protect navigable waters from environmental harm.

Short Title of 1978 Amendment

Section 1 of Pub. L. 95-474 provided: "That this Act [enacting sections 1225 and 1228 to 1232 of this title, amending sections 1221 to 1224, 1226, and 1227 of this title, and sections 214 and 391a of Title 46, Shipping, and enacting provisions set out as notes under sections 1221 and 1224 of this title, and section 391a of Title 46] may be cited as the 'Port and Tanker Safety Act of 1978'."

Short Title

Section 1 of Pub. L. 92-340, as amended by Pub. L. 95-474, § 2, Oct. 17, 1978, 92 Stat. 1471, provided that: "This Act [this chapter] may be cited as the 'Ports and Waterways Safety Act'."

Savings Provisions

Section 6(a) of Pub. L. 95-474 provided that: "Regulations previously issued under statutory provisions which are amended by section 2 of this Act [amending sections 1221 to 1227, of this title] shall continue in effect as though issued under the authority of the Ports and Waterways Safety Act of 1972, as amended by this Act [this chapter], until expressly abrogated, modified, or amended by the Secretary. Any proceeding under title I of Public Law 92-340 [which enacted sections 1221 to 1227 of this title] for a violation which occurred before the effective date of this Act [Oct. 17, 1978] may be initiated or continued to conclusion as though such public law had not been amended by this Act [amendment by section 2 of Pub. L. 95-474]."

Separability of Provisions

Section 6(c) of Pub. L. 95-474 provided that: "If a provision of this Act [see Short Title of 1978 Amendment note set out above] or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby."

§ 1222. Definitions

As used in this chapter, unless the context otherwise requires—

(1) "Marine environment" means the navigable waters of the United States and the land and resources therein and thereunder; the waters and fishery resources of any area over which the United States asserts exclusive fishery management authority; the seabed and subsoil of the Outer Continental Shelf of the United States, the resources thereof and the waters superjacent thereto; and the recreational, economic, and scenic values of such waters and resources.

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

(3) "State" includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territories of the Pacific Islands, the Commonwealth of the Northern Marianas, and any other commonwealth, territory, or possession of the United States.

(4) "United States", when used in geographical context, means all the States thereof.

(Pub. L. 92-340, § 3, formerly title I, § 102, July 10, 1972, 86 Stat. 425, renumbered and amended Pub. L. 95-474, § 2, Oct. 17, 1978, 92 Stat. 1471.)

Amendments

1978—Pub. L. 95-474 substituted provision relating to definitions for provision defining the term "United States", permitting higher State or local safety standards, and providing for consultation with appropriate agencies, the inapplicability of this chapter to the Panama Canal, delegation of powers with respect to the Saint Lawrence Seaway, and factors to be considered in issuance of regulations.

§ 1223. Vessel operating requirements

(a) In general

Subject to the requirements of section 1224 of this title, the Secretary may—

(1) in any port or place under the jurisdiction of the United States, in the navigable waters of the United States, or in any area covered by an international agreement negotiated pursuant to section 1230 of this title, establish, operate, and maintain vessel traffic services, consisting of measures for controlling or supervising vessel traffic or for protecting navigation and the marine environment and may include, but need not be limited to one or more of the following: reporting and operating requirements, surveillance and communications systems, routing systems, and fairways;

(2) require vessels which operate in an area of a vessel traffic service to utilize or comply with that service;

(3) require vessels to install and use specified navigation equipment, communications equipment, electronic relative motion analyzer equipment, or any electronic or other device necessary to comply with a vessel traffic service or which is necessary in the interests of vessel safety: *Provided,* That the Secretary shall not require fishing vessels under 300 gross tons or recreational vessels 65 feet or less to possess or use the equipment or devices required by this subsection solely under the authority of this chapter;

(4) control vessel traffic in areas subject to the jurisdiction of the United States which the Secretary determines to be hazardous, or under conditions of reduced visibility, adverse weather, vessel congestion, or other hazardous circumstances by—

(A) specifying times of entry, movement, or departure;

(B) establishing vessel traffic routing schemes;

(C) establishing vessel size, speed, draft limitations and vessel operating conditions; and

(D) restricting operation, in any hazardous area or under hazardous conditions, to vessels which have particular operating characteristics or capabilities which he considers necessary for safe operation under the circumstances; and

(5) require the receipt of prearrival messages from any vessel, destined for a port or place subject to the jurisdiction of the United States, in sufficient time to permit advance vessel traffic planning prior to port entry, which shall include any information which is not already a matter of record and which the Secretary determines necessary for the control of the vessel and the safety of the port or the marine environment.

(b) Special powers

The Secretary may order any vessel, in a port or place subject to the jurisdiction of the United States or in the navigable waters of the United States, to operate or anchor in a manner he directs if—

(1) he has reasonable cause to believe such vessel does not comply with any regulation issued under this chapter or any other applicable law or treaty;

(2) he determines that such vessel does not satisfy the conditions for port entry set forth in section 1228 of this title; or

(3) by reason of weather, visibility, sea conditions, port congestion, other hazardous circumstances, or the condition of such vessel, he is satisfied that such directive is justified in the interest of safety.

(c) Port access routes

(1) In order to provide safe access routes for the movement of vessel traffic proceeding to or from ports or places subject to the jurisdiction of the United States, and subject to the requirements of paragraph (3) hereof, the Secretary shall designate necessary fairways and traffic separation schemes for vessels operating in the territorial sea of the United States and in high seas approaches, outside the territorial sea, to such ports or places. Such a designation shall recognize, within the designated area, the paramount right of navigation over all other uses.

(2) No designation may be made by the Secretary pursuant to this subsection, if such a designation, as implemented, would deprive any person of the effective exercise of a right granted by a lease or permit executed or issued under other applicable provisions of law: *Provided,* That such right has become vested prior to the time of publication of the notice required by clause (A) of paragraph (3) hereof: *Provided further,* That the determination as to whether the designation would so deprive any such person shall be made by the Secretary, after consultation with the responsible official under whose authority the lease was executed or the permit issued.

(3) Prior to making a designation pursuant to paragraph (1) hereof, and in accordance with the requirements of section 1224 of this title, the Secretary shall—

(A) within six months after date of enactment of this Act (and may, from time to time thereafter), undertake a study of the potential traffic density and the need for safe access routes for vessels in any area for which fairways or traffic separation schemes are proposed or which may otherwise be considered and shall publish notice of such undertaking in the Federal Register;

(B) in consultation with the Secretary of State, the Secretary of the Interior, the Secretary of Commerce, the Secretary of the Army, and the Governors of affected States, as their responsibilities may require, take into account all other uses of the area under consideration (including, as appropriate, the exploration for, or exploitation of, oil, gas, or other mineral resources, the construction or operation of deepwater ports or other structures on or above the seabed or subsoil of the submerged lands or the Outer Continental Shelf of the United States, the establishment or operation of marine or estuarine sanctuaries, and activities involving recreational or commercial fishing); and

(C) to the extent practicable, reconcile the need for safe access routes with the needs of all other reasonable uses of the area involved.

(4) In carrying out his responsibilities under paragraph (3), the Secretary shall proceed expeditiously to complete any study undertaken. Thereafter, he shall promptly issue a notice of proposed rule-making for the designation contemplated or shall have published in the Federal Register a notice that no designation is contemplated as a result of the study and the reason for such determination.

(5) In connection with a designation made pursuant to this subsection, the Secretary—

(A) shall issue reasonable rules and regulations governing the use of such designated areas, including the applicability of rules 9 and 10 of the International Regulations for Preventing Collisions at Sea, 1972, relating to narrow channels and traffic separation schemes, respectively, in waters where such regulations apply;

(B) to the extent that he finds reasonable and necessary to effectuate the purposes of the designation, make the use of designated fairways and traffic separation schemes mandatory for specific types and sizes of vessels, foreign and domestic, operating in the territorial sea of the United States and for specific types and sizes of vessels of the United States operating on the high seas beyond the territorial sea of the United States;

(C) may, from time to time, as necessary, adjust the location or limits of designated fairways or traffic separation schemes, in order to accommodate the needs of other uses which cannot be reasonably accommodated otherwise: *Provided*, That such an adjustment will not, in the judgement of the Secretary, unacceptably adversely affect the purpose for which the existing designation was made and the need for which continues; and

(D) shall, through appropriate channels, (i) notify cognizant international organizations of any designation, or adjustment thereof, and (ii) take action to seek the cooperation of foreign States in making it mandatory for vessels under their control to use any fairway or traffic separation scheme designated pursuant to this subsection in any area of the high seas, to the same extent as required by the Secretary for vessels of the United States.

(d) Exception

Except pursuant to international treaty, convention, or agreement, to which the United States is a party, this chapter shall not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the United States and that is in—

(1) innocent passage through the territorial sea of the United States, or

(2) transit through the navigable waters of the United States which form a part of an international strait.

(Pub. L. 92-340, § 4, formerly title I, § 103, July 10, 1972, 86 Stat. 426, renumbered and amended Pub. L. 95-474, § 2, Oct. 17, 1978, 92 Stat. 1472.)

REFERENCES IN TEXT

The date of enactment of this Act, referred to in subsec. (c)(3)(A), probably means the date of enactment of Pub. L. 95-474, which was approved Oct. 17, 1978.

Rules 9 and 10 of the International Regulations for Preventing Collisions at Sea, 1972, referred to in subsec. (c)(5)(A), are set out as a note under section 1602 of this title.

AMENDMENTS

1978—Pub. L. 95-474 substituted provision relating to vessel operating requirements for provision relating to the investigatory powers of the Secretary, production of witnesses and documents, and fees and allowances for witnesses.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1224, 1229 of this title.

§ 1224. Considerations by Secretary

In carrying out his duties and responsibilities under section 1223 of this title, the Secretary shall—

(a) take into account all relevant factors concerning navigation and vessel safety and protection of the marine environment, including but not limited to—

(1) the scope and degree of the risk or hazard involved;

(2) vessel traffic characteristics and trends, including traffic volume, the sizes and types of vessels involved, potential interference with the flow of commercial traffic, the presence of any unusual cargoes, and other similar factors;

(3) port and waterway configurations and variations in local conditions of geography, climate, and other similar factors;

(4) the need for granting exemptions for the installation and use of equipment or devices for use with vessel traffic services for certain classes of small vessels, such as self-propelled fishing vessels and recreational vessels;

(5) the proximity of fishing grounds, oil and gas drilling and production operations, or any other potential or actual conflicting activity;

(6) environmental factors;

(7) economic impact and effects;

(8) existing vessel traffic services; and

(9) local practices and customs, including voluntary arrangements and agreements within the maritime community; and

(b) at the earliest possible time, consult with and receive and consider the views of representatives of the maritime community, ports and harbor authorities or associations, environmental groups, and other parties who may be affected by the proposed actions.

(Pub. L. 92-340, § 5, formerly title I, § 104, July 10, 1972, 86 Stat. 427, renumbered and amended Pub. L. 95-474, § 2, Oct. 17, 1978, 92 Stat. 1474.)

AMENDMENTS

1978—Pub. L. 95-474 substituted provision relating to factors to be considered by the Secretary and to consultation by the Secretary with affected groups for provision relating to the issuance of rules and regulations by the Secretary.

STUDY OF DESIRABILITY AND FEASIBILITY OF SHORE-STATION SYSTEMS FOR MONITORING VESSELS

Section 3 of Pub. L. 95-474 provided that:

"(a) CONTENT.—The Secretary, in consultation with the Secretary of Commerce and other appropriate de-

partments or agencies of the Federal Government, shall study the desirability and feasibility of possible shore-station systems for monitoring vessels, including fishing vessels, within the Fishery Conservation Zone as defined in section 3(8) of the Fishery Conservation and Management Act of 1976 [section 1802(8) of Title 16, Conservation]. Each system examined shall be capable of reporting vessel position, identification, course, and speed using either a land, sea, or space monitoring technique.

"(b) REPORT.—Within two years after the date of the enactment of this Act [Oct. 17, 1978], the Secretary shall report his findings to the Congress. This report shall describe the capabilities, limitations, and cost effectiveness of each monitoring system examined from the standpoint of both the Federal Government and any vessel owners who would be affected by the imposition of each approach. The report shall also include the Secretary's recommendations for a single, comprehensive, cost effective shore-station system for monitoring vessels within the Fishery Conservation Zone.

"(c) APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for the purposes of this section, not to exceed $500,000 for the fiscal year ending September 30, 1979, and not to exceed $500,000 for the fiscal year ending September 30, 1980."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1223, 1229 of this title.

§ 1225. Waterfront safety

(a) In general

The Secretary may take such action as is necessary to—

(1) prevent damage to, or the destruction of, any bridge or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to such waters; and

(2) protect the navigable waters and the resources therein from harm resulting from vessel or structure damage, destruction, or loss. Such action may include, but need not be limited to—

(A) establishing procedures, measures, and standards for the handling, loading, unloading, storage, stowage, and movement on the structure (including the emergency removal, control, and disposition) of explosives or other dangerous articles and substances, including oil or hazardous material as those terms are defined in section 391a of title 46;

(B) prescribing minimum safety equipment requirements for the structure to assure adequate protection from fire, explosion, natural disaster, and other serious accidents or casualties;

(C) establishing water or waterfront safety zones, or other measures for limited, controlled, or conditional access and activity when necessary for the protection of any vessel, structure, waters, or shore area; and

(D) establishing procedures for examination to assure compliance with the requirements prescribed under this section.

(b) State law

Nothing contained in this section, with respect to structures, prohibits a State or political subdivision thereof from prescribing higher safety equipment requirements or safety standards than those which may be prescribed by regulations hereunder.

(Pub. L. 92-340, § 6, as added Pub. L. 95-474, § 2, Oct. 17, 1978, 92 Stat. 1475.)

PRIOR PROVISIONS

A prior section 1225, Pub. L. 92-340, title I, § 105, July 10, 1972, 86 Stat. 427, which authorized the Secretary, within one year from July 10, 1972, to report to Congress his recommendations for legislation necessary to achieve coordination between the functions authorized by Pub. L. 92-340 and the functions of any other agencies and to eliminate duplication of these functions, was omitted from the Code as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1229 of this title.

§ 1226. Pilotage

The Secretary may require federally licensed pilots on any self-propelled vessel, foreign or domestic, engaged in the foreign trade, when operating in the navigable waters of the United States in areas and under circumstances where a pilot is not otherwise required by State law. Any such requirement shall be terminated when the State having jurisdiction over the area involved establishes a requirement for a State licensed pilot and has so notified the Secretary.

(Pub. L. 92-340, § 7, formerly title I, § 106, July 10, 1972, 86 Stat. 427, renumbered and amended Pub. L. 95-474, § 2, Oct. 17, 1978, 92 Stat. 1475.)

AMENDMENTS

1978—Pub. L. 95-474 substituted provision relating to pilotage for provision relating to civil penalties and proceedings for collection.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1229 of this title.

§ 1227. Investigatory powers

(a) Secretary

The Secretary may investigate any incident, accident, or act involving the loss or destruction of, or damage to any structure subject to this chapter, or which affects or may affect the safety or environmental quality of the ports, harbors, or navigable waters of the United States.

(b) Powers

In an investigation under this section, the Secretary may issue subpenas to require the attendance of witnesses and the production of documents or other evidence relating to such incident, accident, or act. If any person refuses to obey a subpena, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance with the subpena. Any district court of the United States may, in the case of refusal to obey a subpena, issue an order requiring compliance with the subpena, and failure to obey the order may be punished by the court as contempt. Witnesses may be paid fees for travel and attendance at rates not exceeding those allowed in a district court of the United States.

(Pub. L. 92-340, § 8, formerly title I, § 107, July 10, 1972, 86 Stat. 427, renumbered and amended Pub. L. 95-474, § 2, Oct. 17, 1978, 92 Stat. 1476.)

AMENDMENTS

1978—Pub. L. 95-474 substituted provision relating to the investigatory powers of the Secretary for provision relating to criminal penalties.

§ 1228. Conditions for entry to ports in the United States

(a) In general

No vessel, subject to the provisions of section 391a of title 46, shall operate in the navigable waters of the United States or transfer cargo or residue in any port or place under the jurisdiction of the United States, if such vessel—

(1) has a history of accidents, pollution incidents, or serious repair problems which, as determined by the Secretary, creates reason to believe that such vessel may be unsafe or may create a threat to the marine environment; or

(2) fails to comply with any applicable regulation issued under this chapter, section 391a of title 46, or under any other applicable law or treaty; or

(3) discharges oil or hazardous material in violation of any law of the United States or in a manner or quantities inconsistent with the provisions of any treaty to which the United States is a party; or

(4) does not comply with any applicable vessel traffic service requirements; or

(5) is manned by one or more officers who are licensed by a certificating state which the Secretary has determined, pursuant to section 391a(11) of title 46, does not have standards for licensing and certification of seafarers which are comparable to or more stringent than United States standards or international standards which are accepted by the United States; or

(6) is not manned in compliance with manning levels as determined by the Secretary to be necessary to insure the safe navigation of the vessel; or

(7) while underway, does not have at least one licensed deck officer on the navigation bridge who is capable of clearly understanding English.

(b) Exceptions

The Secretary may allow provisional entry of a vessel not in compliance with subsection (a) of this section, if the owner or operator of such vessel proves, to the satisfaction of the Secretary, that such vessel is not unsafe or a threat to the marine environment, and if such entry is necessary for the safety of the vessel or persons aboard. In addition, paragraphs (1), (2), (3), and (4) of subsection (a) of this section shall not apply if the owner or operator of such vessel proves, to the satisfaction of the Secretary, that such vessel is no longer unsafe or a threat to the marine environment, and is no longer in violation of any applicable law, treaty, regulation or condition, as appropriate. Clauses (5) and (6) of subsection (a) of this section shall become applicable eighteen months after October 17, 1978.

(Pub. L. 92-340, § 9, as added Pub. L. 95-474, § 2, Oct. 17, 1978, 92 Stat. 1476.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1223, 1232 of this title.

§ 1229. Applicability

This chapter shall not apply to the Panama Canal. The authority granted to the Secretary under sections 1223, 1224, 1225, and 1226 of this title shall not be delegated with respect to the Saint Lawrence Seaway to any agency other than the Saint Lawrence Seaway Development Corporation. Any other authority granted the Secretary under this Act shall be delegated to the Saint Lawrence Seaway Development Corporation to the extent he determines such delegation is necessary for the proper operation of the Saint Lawrence Seaway.

(Pub. L. 92-340, § 10, as added Pub. L. 95-474, § 2, Oct. 17, 1978, 92 Stat. 1477.)

§ 1230. International agreements

(a) Transmittal of regulations

The Secretary shall transmit, via the Secretary of State, to appropriate international bodies or forums, any regulations issued under this chapter, for consideration as international standards.

(b) Agreements

The President is authorized and encouraged to—

(1) enter into negotiations and conclude and execute agreements with neighboring nations, to establish compatible vessel standards and vessel traffic services, and to establish, operate, and maintain international vessel traffic services, in areas and under circumstances of mutual concern; and

(2) enter into negotiations, through appropriate international bodies, and conclude and execute agreements to establish vessel traffic services in appropriate areas of the high seas.

(c) Operations

The Secretary, pursuant to any agreement negotiated under subsection (b) of this section which is binding upon the United States in accordance with constitutional requirements, may—

(1) require vessels in the vessel traffic service area to utilize or to comply with the vessel traffic service, including the carrying or installation of equipment and devices as necessary for the use of the service; and

(2) waive, by order or regulation, the application of any United States law or regulation concerning the design, construction, operation, equipment, personnel qualifications, and manning standards for vessels operating in waters over which the United States exercises jurisdiction if such vessel is not en route to or from a United States port or place, and if vessels en route to or from a United States port or place are accorded equivalent waivers of laws and regulations of the neighboring nation, when operating in waters over which that nation exercises jurisdiction.

(Pub. L. 92-340, § 11, as added Pub. L. 95-474, § 2, Oct. 17, 1978, 92 Stat. 1477.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1223 of this title.

§ 1231. Regulations

(a) In general

In accordance with the provisions of section 553 of title 5, the Secretary shall issue, and may from time to time amend or repeal, regulations necessary to implement this chapter.

(b) Procedures

The Secretary, in the exercise of this regulatory authority, shall establish procedures for consulting with, and receiving and considering the views of all interested parties, including—

(1) interested Federal departments and agencies,

(2) officials of State and local governments,

(3) representatives of the maritime community,

(4) representatives of port and harbor authorities or associations,

(5) representatives of environmental groups,

(6) any other interested parties who are knowledgeable or experienced in dealing with problems involving vessel safety, port and waterways safety, and protection of the marine environment, and

(7) advisory committees consisting of all interested segments of the public when the establishment of such committees is considered necessary because the issues involved are highly complex or controversial.

(Pub. L. 92-340, § 12, as added Pub. L. 95-474, § 2, Oct. 17, 1978, 92 Stat. 1477.)

§ 1232. Enforcement provisions

(a) Civil penalty

(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated this chapter or a regulation issued hereunder shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(3) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

(b) Criminal penalty

(1) Any person who willfully and knowingly violates this chapter or any regulation issued hereunder shall be fined not more than $50,000 for each violation or imprisoned for not more than five years, or both.

(2) Any person who, in the willfull and knowing violation of this chapter or of any regulation issued hereunder, uses a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this chapter or the regulations issued hereunder, shall, in lieu of the penalties prescribed in paragraph (1), be fined not more than $100,000, or imprisoned for not more than ten years, or both.

(c) In rem liability

Any vessel subject to the provisions of this chapter, which is used in violation of this chapter, or any regulations issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to subsection (a) of this section and may be proceeded against in the United States district court for any district in which such vessel may be found.

(d) Injunction

The United States district courts shall have jurisdiction to restrain violations of this chapter or of regulations issued hereunder, for cause shown.

(e) Denial of entry

Except as provided in section 1228 of this title, the Secretary may, subject to recognized principles of international law, deny entry into the navigable waters of the United States to any port or place under the jurisdiction of the United States or to any vessel not in compliance with the provisions of this chapter or the regulations issued hereunder.

(f) Withholding of clearance

The Secretary of the Treasury shall withhold or revoke, at the request of the Secretary, the clearance, required by section 91 of title 46, of any vessel, the owner or operator of which is subject to any of the penalties in this section. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.

(Pub. L. 92-340, § 13, as added Pub. L. 95-474, § 2, Oct. 17, 1978, 92 Stat. 1478.)

CHAPTER 26—WATER POLLUTION PREVENTION AND CONTROL

SUBCHAPTER II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

Sec.
1281a. Total treatment system funding [New].
1294. Public information and education on recycling and reuse of wastewater, use of land treatment, and reduction of wastewater volume [New].
1295. Requirements for American materials [New].
1296. Determination of priority of projects [New].
1297. Guidelines for cost-effectiveness analysis [New].

Chapter Referred to in Other Sections

This chapter is referred to in sections 1293a, 1402, 1502, 1503 of this title; title 15 section 636; title 16 section 1456; title 26 section 169; title 30 sections 201, 1242, 1251, 1253, 1292, 1303; title 40 App. sections 212, 214; title 42 sections 2022, 3102, 3188a, 4363a, 4365, 4905, 6901, 6905, 6907, 6949, 7877, 8302; title 43 sections 421h, 1577, 1595, 1597; title 49 section 1604.

SUBCHAPTER I—RESEARCH AND RELATED PROGRAMS

§ 1251. Congressional declaration of goals and policy

[See main edition for text of (a)]

(b) It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this chapter. It is the policy of Congress that the States manage the construction grant program under this chapter and implement the permit programs under sections 1342 and 1344 of this title. It is further the policy of the Congress to support and aid research relating to the prevention, reduction, and elimination of pollution and to provide Federal technical services and financial aid to State and interstate agencies and municipalities in connection with the prevention, reduction, and elimination of pollution.

[See main edition for text of (c) to (f)]

(g) It is the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated or otherwise impaired by this chapter. It is the further policy of Congress that nothing in this chapter shall be construed to supersede or abrogate rights to quantities of water which have been established by any State. Federal agencies shall co-operate with State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 5(a), 26(b), 91 Stat. 1567, 1575.)

Amendments

1977—Subsec. (b). Pub. L. 95-217, § 26(b), added provisions expressing Congressional policy that the States manage the construction grant program under this chapter and implement the permit program under sections 1342 and 1344 of this title.

Subsec. (g). Pub. L. 95-217, § 5(a), added subsec. (g).

Short Title of 1977 Amendment

Section 1 of Pub. L. 95-217 provided: "That this Act [enacting sections 1281a, 1294 to 1296, and 1297 of this title, amending sections 1251, 1252, 1254 to 1256, 1259, 1262, 1263, 1281, 1282 to 1288, 1291, 1292, 1311, 1314, 1315, 1317 to 1319, 1321 to 1324, 1328, 1341, 1342, 1344, 1345, 1362, 1364, 1375, and 1376 of this title, enacting provisions set out as notes under sections 1251, 1284, 1286, 1314, 1321, 1342, 1344, and 1376 of this title, and amending a provision set out as a note under this section] may be cited as the 'Clean Water Act of 1977'."

Short Title

* * * * *

Section 518 of Act June 30, 1948, ch. 758, title V, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 896, and amended Dec. 27, 1977, Pub. L. 95-217, § 2, 91 Stat. 1566, provided that: "This Act [this chapter] may be cited as the 'Federal Water Pollution Control Act' (commonly referred to as the Clean Water Act)."

Seafood Processing Study; Submittal of Results to Congress Not Later Than January 1, 1979

Pub. L. 95-217, § 74, Dec. 27, 1977, 91 Stat. 1609, provided that: "The Administrator of the Environmental Protection Agency shall conduct a study to examine the geographical, hydrological, and biological characteristics of marine waters to determine the effects of seafood processes which dispose of untreated natural wastes into such waters. In addition, such study shall examine technologies which may be used in such processes to facilitate the use of the nutrients in these wastes or to reduce the discharge of such wastes into the marine environment. The results of such study shall be submitted to Congress not later than January 1, 1979."

Federal Compliance with Pollution Control Standards

For provisions relating to the responsibility of the head of each Executive agency for compliance with applicable pollution control standards, see Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

Section Referred to in Other Sections

This section is referred to in sections 1252, 1311 of this title.

§ 1252. Comprehensive programs for water pollution control

[See main edition for text of (a) to (c)]

(d) The Administrator, after consultation with the States, and River Basin Commissions established under the Water Resources Planning Act [42 U.S.C. 1962 et seq.], shall submit a report to Congress on or before July 1, 1978, which analyzes the relationship between programs under this chapter, and the programs by which State and Federal agencies allocate quantities of water. Such report shall include recommendations concerning the policy in section 1251(g) of this title to improve coordination of efforts to reduce and eliminate pollution in concert with programs for managing water resources.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 5(b), 91 Stat. 1567.)

References in Text

The Water Resources Planning Act, referred to in subsec. (d), is Pub. L. 89-80, July 22, 1965, 79 Stat. 244, as amended, which is classified generally to chapter 19B (§ 1962 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1962 of Title 42 and Tables.

Amendments

1977—Subsec. (d). Pub. L. 95-217 added subsec. (d).

Transfer of Functions

The Federal Power Commission was terminated and its functions with regard to licenses and permits for dams, reservoirs, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under Part I of the Federal Power Act, section 792 et seq. of Title 16, Conservation, were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42, The Public Health and Welfare.

§ 1254. Research, investigations, training, and information

[See main edition for text of (a) to (m)]

(n) Comprehensive studies of effects of pollution on estuaries and estuarine zones; reports

[See main edition for text of (1) and (2)]

(3) The Administrator shall submit to Congress, from time to time, reports of the studies authorized by this subsection but at least one such report during any six-year period. Copies of each such report shall be made available to all interested parties, public and private.

[See main edition for text of (4); (o) and (p)]

(q) Sewage in rural areas; national clearinghouse for alternative treatment information

[See main edition for text of (1) and (2)]

(3) The Administrator shall establish, either within the Environmental Protection Agency, or through contract with an appropriate public or private non-profit organization, a national clearinghouse which shall (A) receive reports and information resulting from research, demonstrations, and other projects funded under this chapter related to paragraph (1) of this subsection and to subsection (e)(2) of section 1255 of this title; (B) coordinate and disseminate such reports and information for use by Federal and State agencies, municipalities, institutions, and persons in developing new and improved methods pursuant to this subsection; and (C) provide for the collection and dissemination of reports and information relevant to this subsection from other Federal and State agencies, institutions, universities, and persons.

[See main edition for text of (r) to (t)]

(u) Authorization of appropriations

There is authorized to be appropriated (1) $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, and not to exceed $14,039,000 for the fiscal year ending September 30, 1980, for carrying out the provisions of this section, other than subsections (g)(1) and (2), (p), (r), and (t) of this section, except that such authorizations are not for any research, development, or demonstration activity pursuant to such provisions; (2) not to exceed $7,500,000 for fiscal years 1973, 1974, and 1975, $2,000,000 for fiscal year 1977, $3,000,000 for fiscal year 1978, $3,000,000 for fiscal year 1979, and $3,000,000 for fiscal year 1980, for carrying out the provisions of subsection (g)(1) of this section; (3) not to exceed $2,500,000 for fiscal years 1973, 1974, and 1975, $1,000,000 for fiscal year 1977, $1,500,000 for fiscal year 1978, $1,500,000 for fiscal year 1979, and $1,500,000 for fiscal year 1980, for carrying out the provisions of subsection (g)(2) of this section; (4) not to exceed $10,000,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (p) of this section; (5) not to exceed $15,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (r) of this section; and (6) not to exceed $10,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (t) of this section.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 4(a), (b), 6, 7, 91 Stat. 1566, 1567; Nov. 2, 1978, Pub. L. 95-576, § 1(a), 92 Stat. 2467.)

AMENDMENTS

1978—Subsec. (u)(1). Pub. L. 95-576 authorized appropriation of not to exceed $14,039,000 for fiscal year ending Sept. 30, 1980 and prohibited use of authorizations for any research, development, or demonstration activity pursuant to provisions of this section.

1977—Subsec. (n)(3). Pub. L. 95-217, § 6, substituted "any six-year period" for "any three year period".

Subsec. (q)(3). Pub. L. 95-217, § 7, added subsec. (q)(3).

Subsec. (u)(2). Pub. L. 95-217, § 4(a), substituted "1975, $2,000,000 for fiscal year 1977, $3,000,000 for fiscal year 1978, $3,000,000 for fiscal year 1979, and $3,000,000 for fiscal year 1980," for "1975".

Subsec. (u)(3). Pub. L. 95-217, § 4(b), substituted "1975, $1,000,000 for fiscal year 1977, $1,500,000 for fiscal year 1978, $1,500,000 for fiscal year 1979, and $1,500,000 for fiscal year 1980," for "1975".

COLUMBIA RIVER BASIN SYSTEM; PROTECTION FROM OIL SPILLS AND DISCHARGES; CRITERIA FOR EVALUATION AND REPORT TO CONGRESS BY COMMANDANT OF COAST GUARD IN CONSULTATION WITH FEDERAL, ETC., AGENCIES

Pub. L. 95-308, § 8, June 30, 1978, 92 Stat. 359, provided that:

"(a) The Congress finds and declares the following:

"(1) The transportation, production and handling of oil in, on, or near the navigable and ocean waters of the Columbia River Basin system creates substantial environmental risks, and may cause serious damage to the general health, welfare, and economy of this region.

"(2) The vitality of the Columbia River estuary and marine environment is crucial to the maintenance and enhancement of major fishery resources for the enjoyment and livelihood of present and future generations.

"(3) The protection and betterment of this marine, estuarine and fresh water river system requires a thorough, detailed assessment of the current plans and capabilities to best prevent, contain, clean-up and mitigate the damages resulting from possible oil spills and discharges in the system.

"(b) Within 180 days after the date of enactment of this section [June 30, 1978], the Commandant of the Coast Guard, in consultation with the appropriate Federal, State, and local agencies, shall conduct a systematic, detailed evaluation on the—

"(1) current procedures, safeguards, and capabilities to best prevent, contain, clean-up, and mitigate damages resulting from oil spills and discharges in, on, or near the navigable and ocean waters of the Columbia River Basin system;

"(2) available and required oceanographic[,] meteorological, and other relevant data necessary to best provide for the management referred to in paragraph (1);

"(3) potential risk of existing and projected oil tanker traffic in, on, or near the navigable and ocean waters of the Columbia River Basin system causing harm to the environment of such system due to oil spills, fuel dumping, residual discharges, and other releases of crude oil or petroleum products; and

"(4) need for legislation or other strategies to insure protection of such system and its environment, including the prompt development of an or-

derly, step-by-step contingency plan to contain, cleanup, and mitigate the damages resulting from the conditions referred to in paragraph (3).

The Commandant shall submit the results of such evaluation, immediately upon completion, including such recommendations as he deems necessary, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1255, 1263, 1322, 1375, 1376 of this title.

§ 1255. Grants for research and development

[See main edition for text of (a) to (h)]

(i) Assistance for research and demonstration projects

The Administrator is authorized to make grants to a municipality to assist in the costs of operating and maintaining a project which received a grant under this section, section 1254 of this title, or section 1263 of this title prior to December 27, 1977, so as to reduce the operation and maintenance costs borne by the recipients of services from such project to costs comparable to those for projects assisted under subchapter II of this chapter.

(j) Assistance for recycle, reuse, and land treatment projects

The Administrator is authorized to make a grant to any grantee who received an increased grant pursuant to section 1282(a)(2) of this title. Such grant may pay up to 100 per centum of the costs of technical evaluation of the operation of the treatment works, costs of training of persons (other than employees of the grantee), and costs of disseminating technical information on the operation of the treatment works.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 8, 9, 91 Stat. 1568.)

AMENDMENTS

1977—Subsec. (i). Pub. L. 95-217, § 8, added subsec. (i).

Subsec. (j). Pub. L. 95-217, § 9, added subsec. (j).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1254, 1263, 1375, 1376 of this title.

§ 1256. Grants for pollution control programs

(a) Authorization of appropriations for state and interstate programs

There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purpose of this section—

(1) $60,000,000 for the fiscal year ending June 30, 1973; and

(2) $75,000,000 for the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, $100,000,000 per fiscal year for the fiscal years 1977, 1978, 1979, and 1980;

for grants to States and to interstate agencies to assist them in administering programs for the prevention, reduction, and elimination of pollution, including enforcement directly or through appropriate State law enforcement officers or agencies.

[See main edition for text of (b) to (g)]

(As amended Dec. 27, 1977, Pub. L. 95-217, § 4(c), 91 Stat. 1566.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-217 substituted "and the fiscal year ending June 30, 1975, $100,000,000 per fiscal year for the fiscal years 1977, 1978, 1979, and 1980" for "and the fiscal year ending June 30, 1975".

§ 1259. Training grants and contracts

[See main edition for text of (a)]

(b)(1) The Administrator may pay 100 per centum of any additional cost of construction of treatment works required for a facility to train and upgrade waste treatment works operation and maintenance personnel and for the costs of other State treatment works operator training programs, including mobile training units, classroom rental, specialized instructors, and instructional material.

(2) The Administrator shall make no more than one grant for such additional construction in any State (to serve a group of States, where, in his judgment, efficient training programs require multi-State programs), and shall make such grant after consultation with and approval by the State or States on the basis of (A) the suitability of such facility for training operation and maintenance personnel for treatment works throughout such State or States; and (B) a commitment by the State agency or agencies to carry out at such facility a program of training approved by the Administrator. In any case where a grant is made to serve two or more States, the Administrator is authorized to make an additional grant for a supplemental facility in each such State.

(3) The Administrator may make such grant out of the sums allocated to a State under section 1285 of this title, except that in no event shall the Federal cost of any such training facilities exceed $500,000.

(4) The Administrator may exempt a grant under this section from any requirement under section 1284(a)(3) of this title. Any grantee who received a grant under this section prior to enactment of the Clean Water Act of 1977 shall be eligible to have its grant increased by funds made available under such Act.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 10, 91 Stat. 1568.)

REFERENCES IN TEXT

Prior to the date of enactment of the Clean Water Act of 1977, referred to in subsec. (b)(4), means prior to the enactment of Pub. L. 95-217, Dec. 27, 1977, 91 Stat. 1566, which was enacted Dec. 27, 1977.

Such Act, referred to in subsec. (b)(4), means Pub. L. 95-217, Dec. 27, 1977, 91 Stat. 1566, known as the Clean Water Act of 1977. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1251 of this title and Tables.

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-217, § 10(c), (d), substituted "cost of construction of treatment works required for a facility to train and upgrade waste treatment works operation and maintenance personnel and for the costs of other State treatment works operator

training programs, including mobile training units, classroom rental, specialized instructors, and instructional material" for "cost of construction of a treatment works required for a facility to train and upgrade waste treatment works operation and maintenance personnel".

Subsec. (b)(2). Pub. L. 95-217, § 10(e), authorized the Administrator to make an additional grant for a supplemental facility in each of the States in any case where a grant is made to serve two or more States.

Subsec. (b)(3). Pub. L. 95-217, § 10(a), substituted "$500,000" for "$250,000".

Subsec. (b)(4). Pub. L. 95-217, § 10(b), added subsec. (b)(4).

§ 1262. Definitions and authorizations

[See main edition for text of (a) and (b)]

(c) There are authorized to be appropriated $25,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, $6,000,000 for the fiscal year ending September 30, 1977, $7,000,000 for the fiscal year ending September 30, 1978, $7,000,000 for the fiscal year ending September 30, 1979, and $7,000,000 for the fiscal year ending September 30, 1980, to carry out sections 1259 through 1262 of this title.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 4(d), 91 Stat. 1566.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-217 substituted "June 30, 1975, $6,000,000 for the fiscal year ending September 30, 1977, $7,000,000 for the fiscal year ending September 30, 1978, $7,000,000 for the fiscal year ending September 30, 1979, and $7,000,000 for the fiscal year ending September 30, 1980," for "June 30, 1975,".

§ 1263. Alaska village demonstration projects

[See main edition for text of (a) to (c)]

(d) Authorization of appropriations

There is authorized to be appropriated not to exceed $2,000,000 to carry out this section. In addition, there is authorized to be appropriated to carry out this section not to exceed $200,000 for the fiscal year ending September 30, 1978, and $220,000 for the fiscal year ending September 30, 1979.

(e) Study to develop comprehensive program for achieving sanitation services; report to Congress

The Administrator is authorized to coordinate with the Secretary of the Department of Health, Education, and Welfare, the Secretary of the Department of Housing and Urban Development, the Secretary of the Department of the Interior, the Secretary of the Department of Agriculture, and the heads of any other departments or agencies he may deem appropriate to conduct a joint study with representatives of the State of Alaska and the appropriate Native organizations (as defined in Public Law 92-203) to develop a comprehensive program for achieving adequate sanitation services in Alaska villages. This study shall be coordinated with the programs and projects authorized by sections 1254(q) and 1255(e)(2) of this title. The Administrator shall submit a report of the results of the study, together with appropriate supporting data and such recommendations as he deems desirable, to the Committee on Environment and Public Works of the Senate and to the Committee on Public Works and Transportation of the House of Representatives not later than December 31, 1979. The Administrator shall also submit recommended administrative actions, procedures, and any proposed legislation necessary to implement the recommendations of the study no later than June 30, 1980.

(f) Technical, financial, and management assistance

The Administrator is authorized to provide technical, financial and management assistance for operation and maintenance of the demonstration projects constructed under this section, until such time as the recommendations of subsection (e) of this section are implemented.

(g) Definitions

For the purpose of this section, the term "village" shall mean an incorporated or unincorporated community with a population of ten to six hundred people living within a two-mile radius. The term "sanitation services" shall mean water supply, sewage disposal, solid waste disposal and other services necessary to maintain generally accepted standards of personal hygiene and public health.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 11, 91 Stat. 1568.)

REFERENCES IN TEXT

Public Law 92-203, referred to in subsec. (e), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, known as the Alaska Native Claims Settlement Act, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

1977—Subsec. (d). Pub. L. 95-217, § 11(b), authorized additional appropriations of not to exceed $200,000 for the fiscal year ending Sept. 30, 1978, and $220,000, for the fiscal year ending Sept. 30, 1979, to carry out this section.

Subsecs. (e) to (g). Pub. L. 95-217, § 11(a), added subsecs. (e), (f), and (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1255, 1376 of this title.

SUBCHAPTER II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1255, 1311, 1371 of this title; title 42 section 5153.

§ 1281. Congressional declaration of purpose

[See main edition for text of (a) to (f)]

(g)(1) The Administrator is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the construction of publicly owned treatment works.

[See main edition for text of (2) to (4)]

(5) The Administrator shall not make grants from funds authorized for any fiscal year beginning after September 30, 1978, to any State,

municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that innovative and alternative wastewater treatment processes and techniques which provide for the reclaiming and reuse of water, otherwise eliminate the discharge of pollutants, and utilize recycling techniques, land treatment, new or improved methods of waste treatment management for municipal and industrial waste (discharged into municipal systems) and the confined disposal of pollutants, so that pollutants will not migrate to cause water or other environmental pollution, have been fully studied and evaluated by the applicant taking into account subsection (d) of this section and taking into account and allowing to the extent practicable the more efficient use of energy and resources.

(6) The Administrator shall not make grants from funds authorized for any fiscal year beginning after September 30, 1978, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that the applicant has analyzed the potential recreation and open space opportunities in the planning of the proposed treatment works.

(h) A grant may be made under this section to construct a privately owned treatment works serving one or more principal residences or small commercial establishments constructed prior to, and inhabited on, December 27, 1977, where the Administrator finds that—

(1) a public body otherwise eligible for a grant under subsection (g) of this section has applied on behalf of a number of such units and certified that public ownership of such works is not feasible;

(2) such public body has entered into an agreement with the Administrator which guarantees that such treatment works will be properly operated and maintained and will comply with all other requirements of section 1284 of this title and includes a system of charges to assure that each recipient of waste treatment services under such a grant will pay its proportionate share of the cost of operation and maintenance (including replacement); and

(3) the total cost and environmental impact of providing waste treatment services to such residences or commercial establishments will be less than the cost of providing a system of collection and central treatment of such wastes.

In the case of any treatment works assisted under this subsection serving commercial users, any such agreement under paragraph (2) shall make provision for the payment to the United States by the commercial users of the treatment works of that portion of the cost of construction of such works which is applicable to the treatment of commercial wastes to the extent attributable to the Federal share of the cost of construction.

(i) The Administrator shall encourage waste treatment management methods, processes, and techniques which will reduce total energy requirements.

(j) The Administrator is authorized to make a grant for any treatment works utilizing processes and techniques meeting the guidelines promulgated under section 1314(d)(3) of this title, if the Administrator determines it is in the public interest and if in the cost effectiveness study made of the construction grant application for the purpose of evaluating alternative treatment works, the life cycle cost of the treatment works for which the grant is to be made does not exceed the life cycle cost of the most cost effective alternative by more than 15 per centum.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 12-16, 91 Stat. 1569, 1570.)

AMENDMENTS

1977—Subsec. (g)(5). Pub. L. 95-217, § 12, added subsec. (g)(5).

Subsec. (g)(6). Pub. L. 95-217, § 13, added subsec. (g)(6).

Subsec. (h). Pub. L. 95-217, § 14, added subsec. (h).

Subsec. (i). Pub. L. 95-217, § 15, added subsec. (i).

Subsec. (j). Pub. L. 95-217, § 16, added subsec. (j).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1254, 1281a, 1282, 1283, 1284, 1285, 1288, 1291, 1292, 1297, 1311, 1314, 1371, 1375 of this title.

§ 1281a. Total treatment system funding

Notwithstanding any other provision of law, in any case where the Administrator of the Environmental Protection Agency finds that the total of all grants made under section 1281 of this title for the same treatment works exceeds the actual construction costs for such treatment works (as defined in this chapter) such excess amount shall be a grant of the Federal share (as defined in this chapter) of the cost of construction of a sewage collection system if—

(1) such sewage collection system was constructed as part of the same total treatment system as the treatment works for which such grants under section 1281 of this title were approved, and

(2) an application for assistance for the construction of such sewage collection system was filed in accordance with section 3102 of title 42 before all such grants under section 1281 of this title were made and such grant under section 3102 of title 42 could not be approved due to lack of funding under such section 3102 of title 42.

The total of all grants for sewage collection systems made under this section shall not exceed $2,800,000.

(Pub. L. 95-217, § 78, Dec. 27, 1977, 91 Stat. 1611.)

CODIFICATION

Section was enacted as part of the Clean Water Act of 1977, Pub. L. 95-217, and not as part of the Federal Water Pollution Control Act, June 30, 1948, ch. 758, as added Oct. 18, 1972, Pub. L. 92-500, § 2, 86 Stat. 816, which comprises this chapter.

§ 1282. Federal share

(a)(1) The amount of any grant for treatment works made under this chapter from funds authorized for any fiscal year beginning after June 30, 1971, shall be 75 per centum of the cost of construction thereof (as approved by the Administrator). Any grant (other than for reimbursement) made prior to October 18, 1972, from any funds authorized for any fiscal year beginning after June 30, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under this section.

(2) The amount of any grant made after September 30, 1978, and before October 1, 1981, for any eligible treatment works or significant portion thereof utilizing innovative or alternative wastewater treatment processes and techniques referred to in section 1281(g)(5) of this title shall be 85 per centum of the cost of construction thereof. No grant shall be made under this paragraph for construction of a treatment works in any State unless the proportion of the State contribution to the non-Federal share of construction costs for all treatment works in such State receiving a grant under this paragraph is the same as or greater than the proportion of the State contribution (if any) to the non-Federal share of construction costs for all treatment works receiving grants in such State under paragraph (1) of this subsection.

(3) In addition to any grant made pursuant to paragraph (2) of this subsection, the Administrator is authorized to make a grant to fund all of the costs of the modification or replacement of any facilities constructed with a grant made pursuant to paragraph (2) if the Administrator finds that such facilities have not met design performance specifications unless such failure is attributable to negligence on the part of any person and if such failure has significantly increased capital or operating and maintenance expenditures.

(4) For the purposes of this section, the term "eligible treatment works" means those treatment works in each State which meet the requirements of section 1281(g)(5) of this title and which can be fully funded from funds available for such purpose in such State in the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981. Such term does not include collector sewers, interceptors, storm or sanitary sewers or the separation thereof, or major sewer rehabilitation.

[*See main edition for text of* (b)]

(As amended Dec. 27, 1977, Pub. L. 95-217, § 17, 91 Stat. 1571.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217 designated existing provisions as par. (1) and added pars. (2), (3), and (4).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1255, 1285 of this title.

§ 1283. Plans, specifications, estimates, and payments

(a) Submission; contractual nature of approval by Administrator

Each applicant for a grant shall submit to the Administrator for his approval, plans, specifications, and estimates for each proposed project for the construction of treatment works for which a grant is applied for under section 1281(g)(1) of this title from funds allotted to the State under section 1285 of this title and which otherwise meets the requirements of this chapter. The Administrator shall act upon such plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such plans, specifications, and estimates shall be deemed a contractual obligation of the United States for the payment of its proportional contribution to such project. In the case of a treatment works that has an estimated total cost of $2,000,000 or less (as determined by the Administrator), and the population of the applicant municipality is twenty-five thousand or less (according to the most recent United States census), upon completion of an approved facility plan, a single grant may be awarded for the combined Federal share of the cost of preparing construction plans and specifications, and the building and erection of the treatment works. If any State is found by the Administrator to have unusually high costs of construction, the Administrator may authorize a single grant under the preceding sentence where the estimated total cost of the treatment works does not exceed $3,000,000.

[*See main edition for text of* (b) *to* (d)]

(e) Technical and legal assistance in administration and enforcement of contracts; intervention in civil actions

At the request of a grantee under this subchapter, the Administrator is authorized to provide technical and legal assistance in the administration and enforcement of any contract in connection with treatment works assisted under this subchapter, and to intervene in any civil action involving the enforcement of such a contract.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 18, 19, 91 Stat. 1571, 1572.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217, § 18, provided that, in the case of a treatment works that has an estimated total cost of $2,000,000 or less (as determined by the Administrator), and the population of the applicant municipality is twenty-five thousand or less (according to the most recent United States census), upon completion of an approved facility plan, a single grant may be awarded for the combined Federal share of the cost of preparing construction plans and specifications, and the building and erection of the treatment works, and that, if any State is found by the Administrator to have unusually high costs of construction, the Administrator may authorize a single grant where the estimated total cost of the treatment works does not exceed $3,000,000.

Subsec. (e). Pub. L. 95-217, § 19, added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1284, 1285, 1286, 1311 of this title.

§ 1284. Limitations and conditions

(a) Before approving grants for any project for any treatment works under section 1281(g)(1) of this title the Administrator shall determine—

[*See main edition for text of (1) and (2)*]

(3) that such works have been certified by the appropriate State water pollution control agency as entitled to priority over such other works in the State in accordance with any applicable State plan under section 1313(e) of this title, except that any priority list developed pursuant to section 1313(e)(3)(H) of this title may be modified by such State in accordance with regulations promulgated by the Administrator to give higher priority for grants for the Federal share of the cost of preparing construction drawings and specifications for any treatment works utilizing processes and techniques meeting the guidelines promulgated under section 1314(d)(3) of this title and for grants for the combined Federal share of the cost of preparing construction drawings and specifications and the building and erection of any treatment works meeting the requirements of the next to the last sentence of section 1283(a) of this title which utilizes processes and techniques meeting the guidelines promulgated under section 1314(d)(3) of this title.

[*See main edition for text of (4)*]

(5) that the size and capacity of such works relate directly to the needs to be served by such works, including sufficient reserve capacity. The amount of reserve capacity provided shall be approved by the Administrator on the basis of a comparison of the cost of constructing such reserves as a part of the works to be funded and the anticipated cost of providing expanded capacity at a date when such capacity will be required, after taking into account, in accordance with regulations promulgated by the Administrator, efforts to reduce total flow of sewage and unnecessary water consumption. The amount of reserve capacity eligible for a grant under this subchapter shall be determined by the Administrator taking into account the projected population and associated commercial and industrial establishments within the jurisdiction of the applicant to be served by such treatment works as identified in an approved facilities plan, an areawide plan under section 1288 of this title, or an applicable municipal master plan of development. For the purpose of this paragraph, section 1288 of this title, and any such plan, projected population shall be determined on the basis of the latest information available from the United States Department of Commerce or from the States as the Administrator, by regulation, determines appropriate.

[*See main edition for text of (6)*]

(b)(1) Notwithstanding any other provision of this subchapter, the Administrator shall not approve any grant for any treatment works under section 1281(g)(1) of this title after March 1, 1973, unless he shall first have determined that the applicant (A) has adopted or will adopt a system of charges to assure that each recipient of waste treatment services within the applicant's jurisdiction, as determined by the Administrator, will pay its proportionate share (except as otherwise provided in this paragraph) of the costs of operation and maintenance (including replacement) of any waste treatment services provided by the applicant; (B) has made provision for the payment to such applicant by the industrial users of the treatment works, of that portion of the cost of construction of such treatment works (as determined by the Administrator) which is allocable to the treatment of such industrial wastes to the extent attributable to the Federal share of the cost of construction (which such portion, in the discretion of the applicant, may be recovered from industrial users of the total waste treatment system as distinguished from the treatment works for which the grant is made); and (C) has legal, institutional, managerial, and financial capability to insure adequate construction, operation, and maintenance of treatment works throughout the applicant's jurisdiction, as determined by the Administrator. In any case where an applicant which, as of December 27, 1977, uses a system of dedicated ad valorem taxes and the Administrator determines that the applicant has a system of charges which results in the distribution of operation and maintenance costs for treatment works within the applicant's jurisdiction, to each user class, in proportion to the contribution to the total cost of operation and maintenance of such works by each user class (taking into account total waste water loading of such works, the constituent elements of the wastes, and other appropriate factors), and such applicant is otherwise in compliance with clause (A) of this paragraph with respect to each industrial user, then such dedicated ad valorem tax system shall be deemed to be the user charge system meeting the requirements of clause (A) of this paragraph for the residential user class and such small non-residential user classes as defined by the Administrator. In defining small non-residential users, the Administrator shall consider the volume of wastes discharged into the treatment works by such users and the constituent elements of such wastes as well as such other factors as he deems appropriate.

[*See main edition for text of (2)*]

(3) The grantee shall retain an amount of the revenues derived from the payment of costs by industrial users of waste treatment services, to the extent costs are attributable to the Federal share of eligible project costs provided pursuant to this subchapter as determined by the Administrator, equal to (A) the amount of the non-Federal cost of such project paid by the grantee plus (B) the amount, determined in accordance with regulations promulgated by the Administrator, necessary for the administrative costs associated with the requirement of paragraph (1)(B) of this subsection and future expansion and reconstruction of the project, except that such retained amount shall not exceed 50 per centum of such revenues from such project. All revenues from such project not retained by the grantee shall be deposited by the Administrator in the Treasury as miscellaneous receipts. That portion of the revenues retained by the grantee attributable to clause (B) of the first sentence of this paragraph, to-

gether with any interest thereon shall be used solely for the purposes of future expansion and reconstruction of the project. Notwithstanding paragraph (1)(B) of this subsection, subject to the approval of the Administrator, a grantee that received a grant prior to December 27, 1977, may reduce the amounts required to be paid to such grantee by any industrial user of waste treatment services under such paragraph, if such grantee requires such industrial user to adopt other means of reducing the demand for waste treatment services through reduction in the total flow of sewage or unnecessary water consumption, in proportion to such reduction as determined in accordance with regulations promulgated by the Administrator.

[*See main edition for text of (4)*]

(5) A system of charges which meets the requirement of clause (A) of paragraph (1) of this subsection may be based on something other than metering the sewage or water supply flow of residential recipients of waste treatment services, including ad valorem taxes. If the system of charges is based on something other than metering the Administrator shall require (A) the applicant to establish a system by which the necessary funds will be available for the proper operation and maintenance of the treatment works; and (B) the applicant to establish a procedure under which the residential user will be notified as to that portion of his total payment which will be allocated to the cost of the waste treatment services.

(6) The Administrator is authorized to exempt from the requirement of paragraph (1)(B) of this subsection any industrial user with a flow into such treatment works per day equivalent to twenty-five thousand gallons or less per day of sanitary waste, if such industrial user does not introduce into such treatment works any pollutant which interferes or is incompatible with, or contaminates or reduces the utility of the sludge of such works.

(As amended Dec. 27, 1977, Pub. L. 95–217, §§ 20–24, 91 Stat. 1572, 1573.)

AMENDMENTS

1977—Subsec. (a)(3). Pub. L. 95–217, § 20, provided that any priority list developed pursuant to section 1313(e)(3)(H) of this title may be modified by such State in accordance with regulations promulgated by the Administrator to give higher priority for grants for the Federal share of the cost of preparing construction drawings and specifications for any treatment works utilizing processes and techniques meeting the guidelines promulgated under section 1314(d)(3) of this title and for grants for the combined Federal share of the cost of preparing construction drawings and specifications and the building and erection of any treatment works meeting the requirements of the next to the last sentence of section 1283(a) of this title which utilizes processes and techniques meeting the guidelines promulgated under section 1314(d)(3) of this title.

Subsec. (a)(5). Pub. L. 95–217, § 21, provided that efforts to reduce total flow of sewage and unnecessary water consumption be taken into account, in accordance with regulations promulgated by the Administrator, that the amount of reserve capacity eligible for a grant under this subchapter be determined by the Administrator taking into account the projected population and associated commercial and industrial establishments within the jurisdiction of the applicant to be served by such treatment works as identified in an approved facilities plan, an areawide plan under section 1288 of this title, or an applicable municipal master plan of development, and that, for the purpose of this paragraph, section 1288 of this title, and any such plan, projected population be determined on the basis of the latest information available from the United States Department of Commerce or from the States as the Administrator, by regulation, determines appropriate.

Subsec. (b)(1). Pub. L. 95–217, §§ 22(a)(1), (2), 24(c), added "(except as otherwise provided in this paragraph)" following "proportionate share" in cl. (A) and "(which such portion, in the discretion of the applicant, may be recovered from industrial users of the total waste treatment system as distinguished from the treatment works for which the grant is made)" in cl. (B) and, at the end of existing provisions, added sentences under which a dedicated ad valorem tax system is to be deemed the user charge system meeting the requirements of cl. (A) for the residential user class and such small non-residential user classes as defined by the Administrator in cases where an applicant, as of Dec. 27, 1977, uses a system of dedicated ad valorem taxes and the Administrator determines that the applicant has a system of charges which results in the distribution of operation and maintenance costs for treatment works within the applicant's jurisdiction, to each user class, in proportion to the contribution to the total cost of operation and maintenance of such works by each user class (taking into account total waste water loading of such works, the constituent elements of the wastes, and other appropriate factors), and such applicant is otherwise in compliance with clause (A) of this paragraph with respect to each industrial user.

Subsec. (b)(3). Pub. L. 95–217, §§ 23, 24(a), substituted "necessary for the administrative costs associated with the requirement of paragraph (1)(B) of this subsection and future expansion" for "necessary for future expansion" in cl. (B) and, at the end of existing provisions, added sentence under which, subject to the approval of the Administrator, the following: "Not a grantee that received a grant prior to Dec. 27, 1977, may reduce the amounts required to be paid to such grantee by any industrial user of waste treatment services under such paragraph, if such grantee requires such industrial user to adopt other means of reducing the demand for waste treatment services through reduction in the total flow of sewage or unnecessary water consumption, in proportion to such reduction as determined in accordance with regulations promulgated by the Administrator.

Subsec. (b)(5). Pub. L. 95–217, § 22(b), added subsec. (b)(5).

Subsec. (b)(6). Pub. L. 95–217, § 24(b), added subsec. (b)(6).

COST RECOVERY; SUSPENSION OF GRANT REQUIREMENTS THAT INDUSTRIAL USERS MAKE PAYMENTS

Section 75 of Pub. L. 95–217 provided that:

"(a) The Administrator of the Environmental Protection Agency (hereafter in this section referred to as the 'Administrator') shall study the efficiency of, and the need for, the payment by industrial users of any treatment works of that portion of the cost of construction of such treatment works (as determined by the Administrator) which is allocable to the treatment of industrial wastes to the extent attributable to the Federal share of the cost of construction. Such study shall include, but not be limited to, an analysis of the impact of such a system of payment upon rural communities and on industries in economically distressed areas or areas of high unemployment. No later than the last day of the twelfth month which begins after the date of enactment of this section [Dec. 27, 1977], the Administrator shall submit a report to the Congress setting forth the results of such study.

"(b) During the period beginning on the date of enactment of this section [Dec. 27, 1977] and ending on

the last day of the eighteenth month which begins after the date of enactment of this section [Dec. 27, 1977] (both dates inclusive), no officer or employee of the Federal Government shall enforce, or require any recipient of a grant under section 201(g)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1284) [section 1284(g)(1) of this title] to enforce, any provision in an application for a grant or in a grant agreement under such section which requires any payments by industrial users pursuant to section 204(b)(1)(B) of such Act [subsec. (b)(1)(B) of this section].

"(c) For purposes of this section, the terms 'industrial user' and 'treatment works' have the same meaning given such terms in the Federal Water Pollution Control Act [this chapter].

"(d) Any payment by an industrial user which, but for subsection (b) of this section, was due and payable during the eighteen-month period described in such subsection shall after such eighteen-month period be paid in accordance with the applicable provisions of the Federal Water Pollution Control Act [this chapter] in equal annual installments prorated over the remaining useful life of the treatment works with respect to which they are required to be paid."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1259, 1281, 1285, 1293, 1311, 1342 of this title.

§ 1285. Allotment of grant funds

(a) Funds for fiscal years during period June 30, 1972, and September 30, 1977; determination of amount

Sums authorized to be appropriated pursuant to section 1287 of this title for each fiscal year beginning after June 30, 1972, and before September 30, 1977, shall be allotted by the Administrator not later than the January 1st immediately preceding the beginning of the fiscal year for which authorized, except that the allotment for fiscal year 1973 shall be made not later than 30 days after October 18, 1972. Such sums shall be allotted among the States by the Administrator in accordance with regulations promulgated by him, in the ratio that the estimated cost of constructing all needed publicly owned treatment works in each State bears to the estimated cost of construction of all needed publicly owned treatment works in all of the States. For the fiscal years ending June 30, 1973, and June 30, 1974, such ratio shall be determined on the basis of table III of House Public Works Committee Print No. 92-50. For the fiscal year ending June 30, 1975, such ratio shall be determined one-half on the basis of table I of House Public Works Committee Print Numbered 93-28 and one-half on the basis of table II of such print, except that no State shall receive an allotment less than that which it received for the fiscal year ending June 30, 1972, as set forth in table III of such print. Allotments for fiscal years which begin after the fiscal year ending June 30, 1975, shall be made only in accordance with a revised cost estimate made and submitted to Congress in accordance with section 1375(b) of this title and only after such revised cost estimate shall have been approved by law specifically enacted after October 18, 1972.

(b) Availability and use of funds allotted for fiscal years during period June 30, 1972, and September 30, 1977; reallotment

[*See main edition for text of* (b)]

(c) Funds for fiscal years during period October 1, 1977, and September 30, 1981; determination of amount

Sums authorized to be appropriated pursuant to section 1287 of this title for the fiscal years during the period beginning October 1, 1977, and ending September 30, 1981, shall be allotted for each such year by the Administrator not later than the tenth day which begins after December 27, 1977. Notwithstanding any other provision of law, sums authorized for the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, and September 30, 1981, shall be allotted in accordance with table 3 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives.

(d) Availability and use of funds; reallotment

Sums allotted to the States for a fiscal year shall remain available for obligation for the fiscal year for which authorized and for the period of the next succeeding twelve months. The amount of any allotment not obligated by the end of such twenty-four-month period shall be immediately reallotted by the Administrator on the basis of the same ratio as applicable to sums allotted for the then current fiscal year, except that none of the funds reallotted by the Administrator for fiscal year 1978 and for fiscal years thereafter shall be allotted to any State which failed to obligate any of the funds being reallotted. Any sum made available to a State by reallotment under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this subchapter during any fiscal year.

(e) Minimum allotment; additional appropriations; ratio of amount available

For the fiscal years 1978, 1979, 1980, and 1981, no State shall receive less than one-half of 1 per centum of the total allotment under subsection (c) of this section, except that in the case of Guam, Virgin Islands, American Samoa, and the Trust Territories not more than thirty-three one-hundredths of 1 per centum in the aggregate shall be allotted to all four of these jurisdictions. For the purpose of carrying out this subsection there are authorized to be appropriated, subject to such amounts as are provided in appropriation Acts, not to exceed $75,000,000 for each of fiscal years 1978, 1979, 1980, and 1981. If for any fiscal year the amount appropriated under authority of this subsection is less than the amount necessary to carry out this subsection, the amount each State receives under this subsection for such year shall bear the same ratio to the amount such State would have received under this subsection in such year if the amount necessary to carry it out had been appropriated as the amount appropriated for such year bears to the amount necessary to carry out this subsection for such year.

(f) Availability of funds allotted between January 1, 1975 and March 1, 1975

Notwithstanding any other provision of this section, sums made available between January 1, 1975, and March 1, 1975, by the Administrator for obligation shall be available for obligation until September 30, 1978.

(g) Reservation of funds; state management assistance

(1) The Administrator is authorized to reserve each fiscal year not to exceed 2 per centum of the allotment made to each State under this section on or after October 1, 1977, or $400,000 whichever amount is the greater. Sums so reserved shall be available for making grants to such State under paragraph (2) of this subsection for the same period as sums are available from such allotment under subsection (d) of this section, and any such grant shall be available for obligation only during such period. Any grant made from sums reserved under this subsection which has not been obligated by the end of the period for which available shall be added to the amount last allotted to such State under this section and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.

(2) The Administrator is authorized to grant to any State from amounts reserved to such State under this subsection, the reasonable costs of administering any aspects of sections 1281, 1283, 1284, and 1292 of this title the responsibility for administration of which the Administrator has delegated to such State. The Administrator may increase such grant to take into account the reasonable costs of administering an approved program under section 1288(b)(4) of this title, administering a statewide waste treatment management planning program under section 1288(b)(4) of this title, and managing waste treatment construction grants for small communities.

(h) Alternate systems for small communities

The Administrator shall set aside from funds authorized for each fiscal year beginning on or after October 1, 1978, four per centum of the sums allotted to any State with a rural population of 25 per centum or more of the total population of such State, as determined by the Bureau of the Census. The Administrator may set aside no more than four per centum of the sums allotted to any other State for which the Governor requests such action. Such sums shall be available only for alternatives to conventional sewage treatment works for municipalities having a population of three thousand five hundred or less, or for the highly dispersed sections of larger municipalities, as defined by the Administrator.

(i) Increase in Federal share for construction; projects utilizing innovative processes and techniques

Not less than one-half of one per centum of funds allotted to a State for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, under subsection (a) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works utilizing innovative processes and techniques from 75 per centum to 85 per centum pursuant to section 1282(a)(2) of this title. Including the expenditures authorized by the preceding sentence, a total of two per centum of the funds allotted to a State for each of the fiscal years ending September 30, 1979, and September 30, 1980, and 3 per centum of the funds allotted to a State for the fiscal year ending September 30, 1981, under subsection (a) of this section shall be expended only for increasing grants for construction of treatment works from 75 per centum to 85 per centum pursuant to section 1282(a)(2) of this title.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 25, 26(a), 27, 28, 91 Stat. 1574, 1575.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217, § 25(a), substituted "each fiscal year beginning after June 30, 1972, and before September 30, 1977" for "each fiscal year beginning after June 30, 1972".

Subsecs. (c) to (f). Pub. L. 95-217, § 25(b), added subsecs. (c) to (f).

Subsec. (g). Pub. L. 95-217, § 26(a), added subsec. (g).

Subsec. (h). Pub. L. 95-217, § 27, added subsec. (h).

Subsec. (i). Pub. L. 95-217, § 28, added subsec. (i).

§ 1286. Reimbursement and advanced construction

(a) Publicly owned treatment works construction initiated after June 30, 1966, but before July 1, 1973; reimbursement formula

Any publicly owned treatment works in a State on which construction was initiated after June 30, 1966, but before July 1, 1973, which was approved by the appropriate State water pollution control agency and which the Administrator finds meets the requirements of section 1158 of this title in effect at the time of the initiation of construction shall be reimbursed a total amount equal to the difference between the amount of Federal financial assistance, if any, received under such section 1158 of this title for such project and 50 per centum of the cost of such project, or 55 per centum of the project cost where the Administrator also determines that such treatment works was constructed in conformity with a comprehensive metropolitan treatment plan as described in section 1158(f) of this title as in effect immediately prior to October 18, 1972. Nothing in this subsection shall result in any such works receiving Federal grants from all sources in excess of 80 per centum of the cost of such project.

[See main edition for text of (b) to (f)]

(As amended Dec. 27, 1977, Pub. L. 95-217, § 29(a), 91 Stat. 1576.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217 substituted "July 1, 1973" for "July 1, 1972".

APPLICATION FOR ASSISTANCE FOR PUBLICLY OWNED TREATMENT WORKS WHERE GRANTS WERE MADE BEFORE JULY 2, 1972, AND ON WHICH CONSTRUCTION WAS INITIATED BEFORE JULY 1, 1973

Section 29(b) of Pub. L. 95-217 provided that: "Notwithstanding section 206(c) of the Federal Water Pollution Control Act [subsec. (c) of this section] and section 2 of Public Law 93-207 [set out as a note under this section], in the case of publicly owned treatment works for which a grant was made under the Federal Water Pollution Control Act [this chapter], as amend-

ed by the Water Pollution Control Act amendments of 1956 (Public Law 660, 84th Congress) [act July 9, 1956, ch. 518, 70 Stat. 498] before July 1, 1972, and on which construction was initiated before July 1, 1973, applications for assistance under such section 206 shall be filed not later than the ninetieth day after the date of enactment of the Clean Water Act of 1977 [Dec. 27, 1977]."

§ 1287. Authorization of appropriations

There is authorized to be appropriated to carry out this subchapter, other than sections 1286(e), 1288 and 1289 of this title, for the fiscal year ending June 30, 1973, not to exceed $5,000,000,000, for the fiscal year ending June 30, 1974, not to exceed $6,000,000,000, and for the fiscal year ending June 30, 1975, not to exceed $7,000,000,000, and subject to such amounts as are provided in appropriation Acts, for the fiscal year ending September 30, 1977, $1,000,000,000 for the fiscal year ending September 30, 1978, $4,500,000,000 and for the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, not to exceed $5,000,000,000 per fiscal year.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 30, 91 Stat. 1576.)

AMENDMENTS

1977—Pub. L. 95-217 added "and subject to such amounts as are provided in appropriation Acts, for the fiscal year ending September 30, 1977, $1,000,000,000 for the fiscal year ending September 30, 1978, $4,500,000,000 and for the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, not to exceed $5,000,000,000 per fiscal year".

§ 1288. Areawide waste treatment management

[See main edition for text of (a)]

(b) Planning process

(1)(A) Not later than one year after the date of designation of any organization under subsection (a) of this section such organization shall have in operation a continuing areawide waste treatment management planning process consistent with section 1281 of this title. Plans prepared in accordance with this process shall contain alternatives for waste treatment management, and be applicable to all wastes generated within the area involved. The initial plan prepared in accordance with such process shall be certified by the Governor and submitted to the Administrator not later than two years after the planning process is in operation.

(B) For any agency designated after 1975 under subsection (a) of this section and for all portions of a State for which the State is required to act as the planning agency in accordance with subsection (a)(6) of this section, the initial plan prepared in accordance with such process shall be certified by the Governor and submitted to the Administrator not later than three years after the receipt of the initial grant award authorized under subsection (f) of this section.

(2) Any plan prepared under such process shall include, but not be limited to—

(A) the identification of treatment works necessary to meet the anticipated municipal and industrial waste treatment needs of the area over a twenty-year period, annually updated (including an analysis of alternative waste treatment systems), including any requirements for the acquisition of land for treatment purposes; the necessary waste water collection and urban storm water runoff systems; and a program to provide the necessary financial arrangements for the development of such treatment works, and an identification of open space and recreation opportunities that can be expected to result from improved water quality, including consideration of potential use of lands associated with treatment works and increased access to water-based recreation;

[See main edition for text of (B) to (E)]

(F) a process to (i) identify, if appropriate, agriculturally and silviculturally related nonpoint sources of pollution, including return flows from irrigated agriculture, and their cumulative effects, runoff from manure disposal areas, and from land used for livestock and crop production, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

[See main edition for text of (G) to (K); (3)]

(4)(A) Whenever the Governor of any State determines (and notifies the Administrator) that consistency with a statewide regulatory program under section 1313 of this title so requires, the requirements of clauses (F) through (K) of paragraph (2) of this subsection shall be developed and submitted by the Governor to the Administrator for approval for application to a class or category of activity throughout such State.

(B) Any program submitted under subparagraph (A) of this paragraph which, in whole or in part, is to control the discharge or other placement of dredged or fill material into the navigable waters shall include the following:

(i) A consultation process which includes the State agency with primary jurisdiction over fish and wildlife resources.

(ii) A process to identify and manage the discharge or other placement of dredged or fill material which adversely affects navigable waters, which shall complement and be coordinated with a State program under section 1344 of this title conducted pursuant to this chapter.

(iii) A process to assure that any activity conducted pursuant to a best management practice will comply with the guidelines established under section 1344(b)(1) of this title, and sections 1317 and 1343 of this title.

(iv) A process to assure that any activity conducted pursuant to a best management practice can be terminated or modified for cause including, but not limited to, the following:

(I) violation of any condition of the best management practice;

(II) change in any activity that requires either a temporary or permanent reduction or elimination of the discharge pursuant to the best management practice.

(v) A process to assure continued coordination with Federal and Federal-State water-related planning and reviewing processes, including the National Wetlands Inventory.

(C) If the Governor of a State obtains approval from the Administrator of a statewide regulatory program which meets the requirements of subparagraph (B) of this paragraph and if such State is administering a permit program under section 1344 of this title, no person shall be required to obtain an individual permit pursuant to such section, or to comply with a general permit issued pursuant to such section, with respect to any appropriate activity within such State for which a best management practice has been approved by the Administrator under the program approved by the Administrator pursuant to this paragraph.

(D)(i) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with the requirements of this section, the Administrator shall so notify the State, and if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(ii) In the case of a State with a program submitted and approved under this paragraph, the Administrator shall withdraw approval of such program under this subparagraph only for a substantial failure of the State to administer its program in accordance with the requirements of this paragraph.

[See main edition for text of (c) to (e)]

(f) Grants

[See main edition for text of (1)]

(2) For the two-year period beginning on the date the first grant is made under paragraph (1) of this subsection to an agency, if such first grant is made before October 1, 1977, the amount of each such grant to such agency shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section, and thereafter the amount granted to such agency shall not exceed 75 per centum of such costs in each succeeding one-year period. In the case of any other grant made to an agency under such paragraph (1) of this subsection, the amount of such grant shall not exceed 75 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process in any year.

(3) Each applicant for a grant under this subsection shall submit to the Administrator for his approval each proposal for which a grant is applied for under this subsection. The Administrator shall act upon such proposal as soon as practicable after it has been submitted, and his approval of that proposal shall be deemed a contractual obligation of the United States for the payment of its contribution to such proposal, subject to such amounts as are provided in appropriation Acts. There is authorized to be appropriated to carry out this subsection not to exceed $50,000,000 for the fiscal year ending June 30, 1973, not to exceed $100,000,000 for the fiscal year ending June 30, 1974, and not to exceed $150,000,000 per fiscal year for the fiscal years ending June 30, 1975, September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980.

[See main edition for text of (g) and (h)]

(i) State best management practices program

(1) The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall, upon request of the Governor of a State, and without reimbursement, provide technical assistance to such State in developing a statewide program for submission to the Administrator under subsection (b)(4)(B) of this section and in implementing such program after its approval.

(2) There is authorized to be appropriated to the Secretary of the Interior $6,000,000 to complete the National Wetlands Inventory of the United States, by December 31, 1981, and to provide information from such Inventory to States as it becomes available to assist such States in the development and operation of programs under this chapter.

(j) Agricultural cost sharing

(1) The Secretary of Agriculture, with the concurrence of the Administrator, and acting through the Soil Conservation Service and such other agencies of the Department of Agriculture as the Secretary may designate, is authorized and directed to establish and administer a program to enter into contracts, subject to such amounts as are provided in advance by appropriation acts, of not less than five years nor more than ten years with owners and operators having control of rural land for the purpose of installing and maintaining measures incorporating best management practices to control nonpoint source pollution for improved water quality in those States or areas for which the Administrator has approved a plan under subsection (b) of this section where the practices to which the contracts apply are certified by the management agency designated under subsection (c)(1) of this section to be consistent with such plans and will result in improved water quality. Such contracts may be entered into during the period ending not later than September 31, 1988. Under such contracts the land owner or operator shall agree—

(i) to effectuate a plan approved by a soil conservation district, where one exists, under this section for his farm, ranch, or other land substantially in accordance with the schedule outlined therein unless any requirement thereof is waived or modified by the Secretary;

(ii) to forfeit all rights to further payments or grants under the contract and refund to the United States all payments and grants received thereunder, with interest, upon his violation of the contract at any stage during the time he has control of the land if the Secretary, after considering the recommendations

of the soil conservation district, where one exists, and the Administrator, determines that such violation is of such a nature as to warrant termination of the contract, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termination of the contract;

(iii) upon transfer of his right and interest in the farm, ranch, or other land during the contract period to forfeit all rights to further payments or grants under the contract and refund to the United States all payments or grants received thereunder, with interest, unless the transferee of any such land agrees with the Secretary to assume all obligations of the contract;

(iv) not to adopt any practice specified by the Secretary on the advice of the Administrator in the contract as a practice which would tend to defeat the purposes of the contract;

(v) to such additional provisions as the Secretary determines are desirable and includes in the contract to effectuate the purposes of the program or to facilitate the practical administration of the program.

(2) In return for such agreement by the landowner or operator the Secretary shall agree to provide technical assistance and share the cost of carrying out those conservation practices and measures set forth in the contract for which he determines that cost sharing is appropriate and in the public interest and which are approved for cost sharing by the agency designated to implement the plan developed under subsection (b) of this section. The portion of such cost (including labor) to be shared shall be that part which the Secretary determines is necessary and appropriate to effectuate the installation of the water quality management practices and measures under the contract, but not to exceed 50 per centum of the total cost of the measures set forth in the contract; except the Secretary may increase the matching cost share where he determines that (1) the main benefits to be derived from the measures are related to improving offsite water quality, and (2) the matching share requirement would place a burden on the landowner which would probably prevent him from participating in the program.

(3) The Secretary may terminate any contract with a landowner or operator by mutual agreement with the owner or operator if the Secretary determines that such termination would be in the public interest, and may agree to such modification of contracts previously entered into as he may determine to be desirable to carry out the purposes of the program or facilitate the practical administration thereof or to accomplish equitable treatment with respect to other conservation, land use, or water quality programs.

(4) In providing assistance under this subsection the Secretary will give priority to those areas and sources that have the most significant effect upon water quality. Additional investigations or plans may be made, where necessary, to supplement approved water quality management plans, in order to determine priorities.

(5) The Secretary shall, where practicable, enter into agreements with soil conservation districts, State soil and water conservation agencies, or State water quality agencies to administer all or part of the program established in this subsection under regulations developed by the Secretary. Such agreements shall provide for the submission of such reports as the Secretary deems necessary, and for payment by the United States of such portion of the costs incurred in the administration of the program as the Secretary may deem appropriate.

(6) The contracts under this subsection shall be entered into only in areas where the management agency designated under subsection (c)(1) of this section assures an adequate level of participation by owners and operators having control of rural land in such areas. Within such areas the local soil conservation district, where one exists, together with the Secretary of Agriculture, will determine the priority of assistance among individual land owners and operators to assure that the most critical water quality problems are addressed.

(7) The Secretary, in consultation with the Administrator and subject to section 1314(k) of this title, shall, not later than September 30, 1978, promulgate regulations for carrying out this subsection and for support and cooperation with other Federal and non-Federal agencies for implementation of this subsection.

(8) This program shall not be used to authorize or finance projects that would otherwise be eligible for assistance under the terms of Public Law 83-566 [16 U.S.C. 1001 et seq.].

(9) There are hereby authorized to be appropriated to the Secretary of Agriculture $200,000,000 for fiscal year 1979 and $400,000,000 for fiscal year 1980, to carry out this subsection. The program authorized under this subsection shall be in addition to, and not in substitution of, other programs in such area authorized by this or any other public law.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 4(e), 31, 32, 33(a), 34, 35, 91 Stat. 1566, 1576-1579.)

REFERENCES IN TEXT

Public Law 83-566, referred to in subsec. (j)(8), is act Aug. 4, 1954, ch. 656, 68 Stat. 666, as amended, known as the Watershed Protection and Flood Prevention Act, which is classified generally to chapter 18 (§ 1001 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 16 and Tables.

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95-217, § 31(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (b)(2)(A). Pub. L. 95-217, § 32, added ", and an identification of open space and recreation opportunities that can be expected to result from improved water quality, including consideration of potential use of lands associated with treatment works and increased access to water-based recreation" following "development of such treatment works".

Subsec. (b)(2)(F). Pub. L. 95-217, § 33(a), substituted "sources of pollution, including return flows from irrigated agriculture, and their cumulative effects," for "sources of pollution, including".

Subsec. (b)(4). Pub. L. 95-217, § 34(a), designated existing provisions as subpar. (A), substituted "to the Administrator for approval for application to a class or category of activity throughout such State" for "to the Administrator for application to all regions within such State" in subpar. (A) as so designated, and added subpars. (B) to (D).

Subsec. (f)(2). Pub. L. 95-217, § 31(b), substituted "For the two-year period beginning on the date the first grant is made under paragraph (1) of this subsection to an agency, if such first grant is made before October 1, 1977, the amount of each such grant to such agency shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section, and thereafter the amount granted to such agency shall not exceed 75 per centum of such costs in each succeeding one-year period" for "The amount granted to any agency under paragraph (1) of this subsection shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section for each of the fiscal years ending on June 30, 1973, June 30, 1974, and June 30, 1975, and shall not exceed 75 per centum of such costs in each succeeding fiscal year" and added "In the case of any other grant made to an agency under such paragraph (1) of this subsection, the amount of such grant shall not exceed 75 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process in any year."

Subsec. (f)(3). Pub. L. 95-217, §§ 4(e), 31(c), substituted "and not to exceed $150,000,000 per fiscal year for the fiscal years ending June 30, 1975, September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980" for "and not to exceed $150,000,000 for the fiscal year ending June 30, 1975" and added "subject to such amounts as are provided in appropriation Acts" following "contractual obligation of the United States for the payment of its contribution to such proposal".

Subsec. (i). Pub. L. 95-217, § 34(b), added subsec. (i).

Subsec. (j). Pub. L. 95-217, § 35, added subsec. (j).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1252, 1284, 1285, 1287, 1289, 1313, 1314, 1344, 1362, 1375, 1376 of this title; title 26 section 126; title 42 section 6946.

§ 1291. Sewage collection systems

(a) Existing and new systems

No grant shall be made for a sewage collection system under this subchapter unless such grant (1) is for replacement or major rehabilitation of an existing collection system and is necessary to the total integrity and performance of the waste treatment works servicing such community, or (2) is for a new collection system in an existing community with sufficient existing or planned capacity adequately to treat such collected sewage and is consistent with section 1281 of this title.

(b) Use of population density as test

If the Administrator uses population density as a test for determining the eligibility of a collector sewer for assistance it shall be only for the purpose of evaluating alternatives and determining the needs for such system in relation to ground or surface water quality impact.

(c) Pollutant discharges from separate storm sewer systems

No grant shall be made under this subchapter from funds authorized for any fiscal year during the period beginning October 1, 1977, and ending September 30, 1982, for treatment works for control of pollutant discharges from separate storm sewer systems.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 36, 91 Stat. 1581.)

AMENDMENTS

1977—Pub. L. 95-217 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

§ 1292. Definitions

As used in this subchapter—

[*See main edition for text of (1)*]

(2)(A) The term "treatment works" means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 1281 of this title, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process (including land used for the storage of treated wastewater in land treatment systems prior to land application) or is used for ultimate disposal of residues resulting from such treatment.

[*See main edition for text of (B) and (C), (3)*]

(As amended Dec. 27, 1977, Pub. L. 95-217, § 37, 91 Stat. 1581.)

AMENDMENTS

1977—Par. (2)(A). Pub. L. 95-217 added "(including land used for the storage of treated wastewater in land treatment systems prior to land application)" following "integral part of the treatment process".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1285, 1317, 1342, 1345, 1375.

§ 1293. Loan guarantees

CODIFICATION

The section credits should read: (June 30, 1948, ch. 758, title II, § 213, as added Oct. 19, 1976, Pub. L. 94-558, 90 Stat. 2639.)

§ 1294. Public information and education on recycling and reuse of wastewater, use of land treatment, and reduction of wastewater volume

The Administrator shall develop and operate within one year of December 27, 1977, a continuing program of public information and education on recycling and reuse of wastewater (including sludge), the use of land treatment, and methods for the reduction of wastewater volume.

(June 30, 1948, ch. 758, title II, § 214, as added Dec. 27, 1977, Pub. L. 95-217, § 38, 91 Stat. 1581.)

§ 1295. Requirements for American materials

Notwithstanding any other provision of law, no grant for which application is made after February 1, 1978, shall be made under this subchapter for any treatment works unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States, substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States will be used in such treatment works. This section shall not apply in any case where the Administrator determines, based upon those factors the Administrator deems relevant, including the available resources of the agency, it to be inconsistent with the public interest (including multilateral government procurement agreements) or the cost to be unreasonable, or if articles, materials, or supplies of the class or kind to be used or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

(June 30, 1948, ch. 758, title II, § 215, as added Dec. 27, 1977, Pub. L. 95-217, § 39, 91 Stat. 1581.)

§ 1296. Determination of priority of projects

Notwithstanding any other provision of this chapter, the determination of the priority to be given each category of projects for construction of publicly owned treatment works within each State shall be made solely by that State, except that if the Administrator, after a public hearing, determines that a specific project will not result in compliance with the enforceable requirements of this chapter, such project shall be removed from the State's priority list and such State shall submit a revised priority list. These categories shall include, but not be limited to (A) secondary treatment, (B) more stringent treatment, (C) infiltration-in-flow correction, (D) major sewer system rehabilitation, (E) new collector sewers and appurtenances, (F) new interceptors and appurtenances, and (G) correction of combined sewer overflows. Not less than 25 per centum of funds allocated to a State in any fiscal year under this subchapter for construction of publicly owned treatment works in such State shall be obligated for those types of projects referred to in clauses (D), (E), (F), and (G) of this section, if such projects are on such State's priority list for that year and are otherwise eligible for funding in that fiscal year.

(June 30, 1948, ch. 758, title II, § 216, as added Dec. 27, 1977, Pub. L. 95-217, § 40, 91 Stat. 1582.)

§ 1297. Guidelines for cost-effectiveness analysis

Any guidelines for cost-effectiveness analysis published by the Administrator under this subchapter shall provide for the identification and selection of cost effective alternatives to comply with the objective and goals of this chapter and sections 1281(b), 1281(d), 1281(g)(2)(A), and 1311(b)(2)(B) of this title.

(June 30, 1948, ch. 758, title II, § 217, as added Dec. 27, 1977, Pub. L. 95-217, § 41, 91 Stat. 1582.)

SUBCHAPTER III—STANDARDS AND ENFORCEMENT

§ 1311. Effluent limitations

[See main edition for text of (a)]

(b) Timetable for achievement of objectives

In order to carry out the objective of this chapter there shall be achieved—

[See main edition for text of (1)]

(2)(A) for pollutants identified in subparagraphs (C), (D), and (F) of this paragraph, effluent limitations for categories and classes of point sources, other than publicly owned treatment works, which (i) shall require application of the best available technology economically achievable for such category or class, which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 1314(b)(2) of this title, which such effluent limitations shall require the elimination of discharges of all pollutants if the Administrator finds, on the basis of information available to him (including information developed pursuant to section 1325 of this title), that such elimination is technologically and economically achievable for a category or class of point sources as determined in accordance with regulations issued by the Administrator pursuant to section 1314(b)(2) of this title, or (ii) in the case of the introduction of a pollutant into a publicly owned treatment works which meets the requirements of subparagraph (B) of this paragraph, shall require compliance with any applicable pretreatment requirements and any other requirement under section 1317 of this title;

(B) not later than July 1, 1983, compliance by all publicly owned treatment works with the requirements set forth in section 1281(g)(2)(A) of this title;

(C) not later than July 1, 1984, with respect to all toxic pollutants referred to in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives compliance with effluent limitations in accordance with subparagraph (A) of this paragraph;

(D) for all toxic pollutants listed under paragraph (1) of subsection (a) of section 1317 of this title which are not referred to in subparagraph (C) of this paragraph compliance with effluent limitations in accordance with subparagraph (A) of this paragraph not later than three years after the date such limitations are established;

(E) not later than July 1, 1984, effluent limitations for categories and classes of point sources, other than publicly owned treatment

works, which in the case of pollutants identified pursuant to section 1314(a)(4) of this title shall require application of the best conventional pollutant control technology as determined in accordance with regulations issued by the Administrator pursuant to section 1314(b)(4) of this title; and

(F) for all pollutants (other than those subject to subparagraphs (C), (D), or (E) of this paragraph) compliance with effluent limitations in accordance with subparagraph (A) of this paragraph not later than 3 years after the date such limitations are established, or not later than July 1, 1984, whichever is later, but in no case later than July 1, 1987.

[*See main edition for text of (c) to (f)*]

(g) Waiver for certain pollutants

(1) The Administrator, with the concurrence of the State, shall modify the requirements of subsection (b)(2)(A) of this section with respect to the discharge of any pollutant (other than pollutants identified pursuant to section 1314(a)(4) of this title, toxic pollutants subject to section 1317(a) of this title, and the thermal component of discharges) from any point source upon a showing by the owner or operator of such point source satisfactory to the Administrator that—

(A) such modified requirements will result at a minimum in compliance with the requirements of subsection (b)(1)(A) or (C) of this section, whichever is applicable;

(B) such modified requirements will not result in any additional requirements on any other point or nonpoint source; and

(C) such modification will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and such modification will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity or teratogenicity), or synergistic propensities.

(2) If an owner or operator of a point source applies for a modification under this subsection with respect to the discharge of any pollutant, such owner or operator shall be eligible to apply for modification under subsection (c) of this section with respect to such pollutant only during the same time period as he is eligible to apply for a modification under this subsection.

(h) Modification of secondary treatment requirements

The Administrator, with the concurrence of the State, may issue a permit under section 1342 of this title which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant in an existing discharge from a publicly owned treatment works into marine waters, if the applicant demonstrates to the satisfaction of the Administrator that—

(1) there is an applicable water quality standard specific to the pollutant for which the modification is requested, which has been identified under section 1314(a)(6) of this title;

(2) such modified requirements will not interfere with the attainment or maintenance of that water quality which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities, in and on the water;

(3) the applicant has established a system for monitoring the impact of such discharge on a representative sample of aquatic biota, to the extent practicable;

(4) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

(5) all applicable pretreatment requirements for sources introducing waste into such treatment works will be enforced;

(6) to the extent practicable, the applicant has established a schedule of activities designed to eliminate the entrance of toxic pollutants from nonindustrial sources into such treatment works;

(7) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit;

(8) any funds available to the owner of such treatment works under subchapter II of this chapter will be used to achieve the degree of effluent reduction required by section 1281(b) and (g)(2)(A) of this title or to carry out the requirements of this subsection.

For the purposes of this subsection the phrase "the discharge of any pollutant into marine waters" refers to a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement and other hydrological and geological characteristics which the Administrator determines necessary to allow compliance with paragraph (2) of this subsection, and section 1251(a)(2) of this title.

(i) Municipal time extensions

(1) Where construction is required in order for a planned or existing publicly owned treatment works to achieve limitations under subsection (b)(1)(B) or (b)(1)(C) of this section, but (A) construction cannot be completed within the time required in such subsection, or (B) the United States has failed to make financial assistance under this chapter available in time to achieve such limitations by the time specified in such subsection, the owner or operator of such treatment works may request the Administrator (or if appropriate the State) to issue a permit pursuant to section 1342 of this title or to modify a permit issued pursuant to that section to extend such time for compliance. Any such request shall be filed with the Administrator (or if appropriate the State) within 180 days after December 27, 1977. The Administrator (or if appropriate the State) may grant such request and issue or modify such a permit, which

shall contain a schedule of compliance for the publicly owned treatment works based on the earliest date by which such financial assistance will be available from the United States and construction can be completed, but in no event later than July 1, 1983, and shall contain such other terms and conditions, including those necessary to carry out subsections (b) through (g) of section 1281 of this title, section 1317 of this title, and such interim effluent limitations applicable to that treatment works as the Administrator determines are necessary to carry out the provisions of this chapter.

(2)(A) Where a point source (other than a publicly owned treatment works) will not achieve the requirements of subsections (b)(1)(A) and (b)(1)(C) of this section and—

(i) if a permit issued prior to July 1, 1977, to such point source is based upon a discharge into a publicly owned treatment works; or

(ii) if such point source (other than a publicly owned treatment works) had before July 1, 1977, a contract (enforceable against such point source) to discharge into a publicly owned treatment works; or

(iii) if either an application made before July 1, 1977, for a construction grant under this chapter for a publicly owned treatment works, or engineering or architectural plans or working drawings made before July 1, 1977, for a publicly owned treatment works, show that such point source was to discharge into such publicly owned treatment works,

and such publicly owned treatment works is presently unable to accept such discharge without construction, and in the case of a discharge to an existing publicly owned treatment works, such treatment works has an extension pursuant to paragraph (1) of this subsection, the owner or operator of such point source may request the Administrator (or if appropriate the State) to issue or modify such a permit pursuant to such section 1342 of this title to extend such time for compliance. Any such request shall be filed with the Administrator (or if appropriate the State) within 180 days after December 27, 1977, or the filing of a request by the appropriate publicly owned treatment works under paragraph (1) of this subsection, whichever is later. If the Administrator (or if appropriate the State) finds that the owner or operator of such point source has acted in good faith, he may grant such request and issue or modify such a permit, which shall contain a schedule of compliance for the point source to achieve the requirements of subsections (b)(1)(A) and (C) of this section and shall contain such other terms and conditions, including pretreatment and interim effluent limitations and water conservation requirements applicable to that point source, as the Administrator determines are necessary to carry out the provisions of this chapter.

(B) No time modification granted by the Administrator (or if appropriate the State) pursuant to paragraph (2)(A) of this subsection shall extend beyond the earliest date practicable for compliance or beyond the date of any extension granted to the appropriate publicly owned treatment works pursuant to paragraph (1) of this subsection, but in no event shall it extend beyond July 1, 1983; and no such time modification shall be granted unless (i) the publicly owned treatment works will be in operation and available to the point source before July 1, 1983, and will meet the requirements of subsections (b)(1)(B) and (C) of this section after receiving the discharge from that point source; and (ii) the point source and the publicly owned treatment works have entered into an enforceable contract requiring the point source to discharge into the publicly owned treatment works, the owner or operator of such point source to pay the costs required under section 1284 of this title, and the publicly owned treatment works to accept the discharge from the point source; and (iii) the permit for such point source requires that point source to meet all requirements under section 1317(a) and (b) of this title during the period of such time modification.

(j) Modification procedures

(1) Any application filed under this section for a modification of the provisions of—

(A) subsection (b)(1)(B) of this section under subsection (h) of this section shall be filed not later than 270 days after December 27, 1977;

(B) subsection (b)(2)(A) of this section as it applies to pollutants identified in subsection (b)(2)(F) of this section shall be filed not later than 270 days after the date of promulgation of an applicable effluent guideline under section 1314 of this title or not later than 270 days after December 27, 1977, whichever is later.

(2) Any application for a modification filed under subsection (g) of this section shall not operate to stay any requirement under this chapter, unless in the judgment of the Administrator such a stay or the modification sought will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity, or teratogenicity), or synergistic propensities, and that there is a substantial likelihood that the applicant will succeed on the merits of such application. In the case of an application filed under subsection (g) of this section, the Administrator may condition any stay granted under this paragraph on requiring the filing of a bond or other appropriate security to assure timely compliance with the requirements from which a modification is sought.

(k) Innovative technology

In the case of any facility subject to a permit under section 1342 of this title which proposes to comply with the requirements of subsection (b)(2)(A) of this section by replacing existing production capacity with an innovative production process which will result in an effluent reduction significantly greater than that required by the limitation otherwise applicable to such facility and moves toward the national goal of eliminating the discharge of all pollutants, or with the installation of an innovative control technique that has a substantial likelihood for

enabling the facility to comply with the applicable effluent limitation by achieving a significantly greater effluent reduction than that required by the applicable effluent limitation and moves toward the national goal of eliminating the discharge of all pollutants, or by achieving the required reduction with an innovative system that has the potential for significantly lower costs than the systems which have been determined by the Administrator to be economically achievable, the Administrator (or the State with an approved program under section 1342 of this title, in consultation with the Administrator) may establish a date for compliance under subsection (b)(2)(A) of this section no later than July 1, 1987, if it is also determined that such innovative system has the potential for industrywide application.

(*l*) Toxic pollutants

The Administrator may not modify any requirement of this section as it applies to any specific pollutant which is on the toxic pollutant list under section 1317(a)(1) of this title.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 42-47, 53(c), 91 Stat. 1582-1586, 1590.)

AMENDMENTS

1977—Subsec. (b)(2)(A). Pub. L. 95-217, § 42(b), substituted "for pollutants identified in subparagraphs (C), (D), and (F) of this paragraph" for "not later than July 1, 1983".

Subsec. (b)(2)(C) to (F). Pub. L. 95-217, § 42(a), added subsec. (b)(2)(C) to (F).

Subsec. (g). Pub. L. 95-217, § 43, added subsec. (g).

Subsec. (h). Pub. L. 95-217, § 44, added subsec. (h).

Subsec. (i). Pub. L. 95-217, § 45, added subsec. (i).

Subsec. (j). Pub. L. 95-217, § 46, added subsec. (j).

Subsec. (k). Pub. L. 95-217, § 47, added subsec. (k).

Subsec. (*l*). Pub. L. 95-217, § 53(c), added subsec. (*l*).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1255, 1292, 1297, 1312, 1313, 1314, 1317, 1319, 1325, 1326, 1341, 1342, 1344, 1364, 1365, 1367, 1369 of this title.

§ 1312. Water quality related effluent limitations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1292, 1311, 1313, 1314, 1319, 1341, 1342, 1365, 1367, 1369 of this title.

§ 1313. Water quality standards and implementation plans

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1252, 1284, 1288, 1314, 1328, 1341, 1375 of this title.

§ 1314. Information and guidelines

(a) Criteria development and publication

[*See main edition for text of (1) to (3)*]

(4) The Administrator shall, within 90 days after December 27, 1977, and from time to time thereafter, publish and revise as appropriate information identifying conventional pollutants, including but not limited to, pollutants classified as biological oxygen demanding, suspended solids, fecal coliform, and pH. The thermal component of any discharge shall not be identified as a conventional pollutant under this paragraph.

(5)(A) The Administrator, to the extent practicable before consideration of any request under section 1311(g) of this title and within six months after December 27, 1977, shall develop and publish information on the factors necessary for the protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and to allow recreational activities, in and on the water.

(B) The Administrator, to the extent practicable before consideration of any application under section 1311(h) of this title and within six months after December 27, 1977, shall develop and publish information on the factors necessary for the protection of public water supplies, and the protection and propagation of a balanced indigenous population of shellfish, fish and wildlife, and to allow recreational activities, in and on the water.

(6) The Administrator shall, within three months after December 27, 1977, and annually thereafter, for purposes of section 1311(h) of this title publish and revise as appropriate information identifying each water quality standard in effect under this chapter or State law, the specific pollutants associated with such water quality standard, and the particular waters to which such water quality standard applies.

(b) Effluent limitation guidelines

For the purpose of adopting or revising effluent limitations under this chapter the Administrator shall, after consultation with appropriate Federal and State agencies and other interested persons, publish within one year of October 18, 1972, regulations, providing guidelines for effluent limitations, and, at least annually thereafter, revise, if appropriate, such regulations. Such regulations shall—

[*See main edition for text of (1)*]

(2)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedure innovations, operating methods, and other alternatives for classes and categories of point sources (other than publicly owned treatment works); and

(B) specify factors to be taken into account in determining the best measures and practices available to comply with subsection (b)(2) of section 1311 of this title to be applicable to any point source (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best available technology shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate;

(3) identify control measures and practices available to eliminate the discharge of pollutants from categories and classes of point sources, taking into account the cost of achieving such elimination of the discharge of pollutants; and

(4)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best conventional pollutant control technology (including measures and practices) for classes and categories of point sources (other than publicly owned treatment works); and

(B) specify factors to be taken into account in determining the best conventional pollutant control technology measures and practices to comply with section 1311(b)(2)(E) of this title to be applicable to any point source (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best conventional pollutant control technology (including measures and practices) shall include consideration of the reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived, and the comparison of the cost and level of reduction of such pollutants from the discharge from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources, and shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate.

[*See main edition for text of* (c)]

(d) Secondary treatment information; alternative waste treatment management techniques and systems

[*See main edition for text of* (1) *and* (2)]

(3) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall promulgate within one hundred and eighty days after December 27, 1977, guidelines for identifying and evaluating innovative and alternative wastewater treatment processes and techniques referred to in section 1281(g)(5) of this title.

(e) Best management practices for industry

The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, may publish regulations, supplemental to any effluent limitations specified under subsections (b) and (c) of this section for a class or category of point sources, for any specific pollutant which the Administrator is charged with a duty to regulate as a toxic or hazardous pollutant under section 1317(a)(1) or 1321 of this title, to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage which the Administrator determines are associated with or ancillary to the industrial manufacturing or treatment process within such class or category of point sources and may contribute significant amounts of such pollutants to navigable waters. Any applicable controls established under this subsection shall be included as a requirement for the purposes of section 1311, 1312, 1316, 1317, or 1343 of this title, as the case may be, in any permit issued to a point source pursuant to section 1342 of this title.

(f) Identification and evaluation of nonpoint sources of pollution; processes, procedures, and methods to control pollution

The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue to appropriate Federal agencies, the States, water pollution control agencies, and agencies designated under section 1288 of this title, within one year after October 18, 1972 (and from time to time thereafter) information including (1) guidelines for identifying and evaluating the nature and extent of nonpoint sources of pollutants, and (2) processes, procedures, and methods to control pollution resulting from—

(A) agricultural and silvicultural activities, including runoff from fields and crop and forest lands;

(B) mining activities, including runoff and siltation from new, currently operating, and abandoned surface and underground mines;

(C) all construction activity, including runoff from the facilities resulting from such construction;

(D) the disposal of pollutants in wells or in subsurface excavations;

(E) salt water intrusion resulting from reductions of fresh water flow from any cause, including extraction of ground water, irrigation, obstruction, and diversion; and

(F) changes in the movement, flow, or circulation of any navigable waters or ground waters, including changes caused by the construction of dams, levees, channels, causeways, or flow diversion facilities.

Such information and revisions thereof shall be published in the Federal Register and otherwise made available to the public.

(g) Guidelines for pretreatment of pollutants

(1) For the purpose of assisting States in carrying out programs under section 1342 of this title, the Administrator shall publish, within one hundred and twenty days after October 18, 1972, and review at least annually thereafter and, if appropriate, revise guidelines for pretreatment of pollutants which he determines are not susceptible to treatment by publicly owned treatment works. Guidelines under this subsection shall be established to control and prevent the discharge into the navigable waters, the contiguous zone, or the ocean (either directly or through publicly owned treatment works) of any pollutant which interferes with, passes through, or otherwise is incompatible with such works.

(2) When publishing guidelines under this subsection, the Administrator shall designate the category or categories of treatment works to which the guidelines shall apply.

(h) Test procedures guidelines

The Administrator shall, within one hundred and eighty days from October 18, 1972, promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to section 1341 of this title or permit application pursuant to section 1342 of this title.

(i) Guidelines for monitoring, reporting, enforcement, funding, personnel, and manpower

The Administrator shall (1) within sixty days after October 18, 1972, promulgate guidelines for the purpose of establishing uniform application forms and other minimum requirements for the acquisition of information from owners and operators of point-sources of discharge subject to any State program under section 1342 of this title, and (2) within sixty days from October 18, 1972, promulgate guidelines establishing the minimum procedural and other elements of any State program under section 1342 of this title, which shall include:

(A) monitoring requirements;

(B) reporting requirements (including procedures to make information available to the public);

(C) enforcement provisions; and

(D) funding, personnel qualifications, and manpower requirements (including a requirement that no board or body which approves permit applications or portions thereof shall include, as a member, any person who receives, or has during the previous two years received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit).

(j) Restoration and enhancement of publicly owned fresh water lakes

The Administrator shall issue information biennially on methods, procedures, and processes as may be appropriate to restore and enhance the quality of the Nation's publicly owned freshwater lakes.

(k) Agreements with Secretaries of Agriculture, Army, and Interior to provide maximum utilization of programs to achieve and maintain water quality; transfer of funds; authorization of appropriations

(1) The Administrator shall enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior, and the heads of such other departments, agencies, and instrumentalities of the United States as the Administrator determines, to provide for the maximum utilization of other Federal laws and programs for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 1288 of this title.

(2) The Administrator is authorized to transfer to the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior and the heads of such other departments, agencies, and instrumentalities of the United States as the Administrator determines, any funds appropriated under paragraph (3) of this subsection to supplement funds otherwise appropriated to programs authorized pursuant to any agreement under paragraph (1).

(3) There is authorized to be appropriated to carry out the provisions of this subsection, $100,000,000 per fiscal year for the fiscal years 1979 through 1983.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 48-51, 62(b), 91 Stat. 1587, 1588, 1598.)

CODIFICATION

Section 50 of Pub. L. 95-217 provided in part that, upon the enactment of subsec. (e) of this section by Pub. L. 95-217 and the concurrent redesignation of former subsecs. (e) to (j) of this section as (f) to (k), respectively, all references to former subsecs. (e) to (j) be changed to (f) to (k), respectively.

AMENDMENTS

1977—Subsec. (a)(4) to (6). Pub. L. 95-217, § 48(a), added subsec. (a)(4) to (6).

Subsec. (b)(4). Pub. L. 95-217, § 48(b), added subsec. (b)(4).

Subsec. (d)(3). Pub. L. 95-217, § 49, added subsec. (d)(3).

Subsec. (e). Pub. L. 95-217, § 50, added subsec. (e). Former subsec. (e) redesignated (f).

Subsecs. (f) to (i). Pub. L. 95-217, § 50, redesignated former subsecs. (e) to (h) as (f) to (i), respectively. Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 95-217, §§ 50, 62(b), redesignated former subsec. (i) as (j) and, in subsec. (j) as so redesignated, substituted "shall issue information biennially on methods" for "shall, within 270 days after October 18, 1972 (and from time to time thereafter), issue such information on methods". Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 95-217, §§ 50, 51, redesignated former subsec. (j) as (k) and, in subsec. (k) as so redesignated, substituted "The Administrator shall enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior, and the heads of such other departments, agencies, and instrumentalities of the United States as the Administrator determines, to provide the maximum utilization of other Federal laws and programs" for "The Administrator shall, within six months from October 18, 1972, enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior to provide for the maximum utilization of the appropriate programs authorized under other Federal law to be carried out by such Secretaries" in par. (1), made conforming amendments in par. (2), and, in par. (3), authorized the year for the fiscal years 1979 through 1983.

REVIEW OF EFFLUENT GUIDELINES PROMULGATED PRIOR TO DECEMBER 27, 1977

Section 73 of Pub. L. 95-217 provided that: "Within 90 days after the date of enactment of this Act [Dec. 27, 1977], the Administrator shall review every effluent guideline promulgated prior to the date of enactment of this Act which is final or interim final (other than those applicable to industrial categories listed in table 2 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives) and which applies to those pollutants identified pursuant to section 304(a)(4) of the Federal Water Pollution Control Act [subsec. (a)(4) of this section]. The Administrator shall review every guideline applicable to industrial categories listed in such table 2 on or before July 1, 1980. Upon completion of each such review the Administrator is authorized to make such adjustments in any such guidelines as may be necessary to carry out section 304(b)(4) of such Act [subsec. (b)(4) of this section]. The Administrator shall publish the results of each such review, including, with respect to each such guideline, the determination to adjust or not to adjust such guideline. Any such determination by the Administrator shall be final except that if, on judicial review

in accordance with section 509 of such Act [section 1369 of this title], it is determined that the Administrator either did not comply with the requirements of this section or the determination of the Administrator was based on arbitrary and capricious action in applying section 304(b)(4) of such Act [subsec. (b)(4) of this section] to such guideline, the Administrator shall make a further review and redetermination of any such guideline."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1255, 1281, 1284, 1288, 1311, 1313, 1315, 1317, 1322, 1323, 1342, 1344, 1369, 1376 of this title.

§ 1315. State reports on water quality; transmittal to Congress

[*See main edition for text of* (a)]

(b)(1) Each State shall prepare and submit to the Administrator by April 1, 1975, and shall bring up to date by April 1, 1976, and biennially thereafter, a report which shall include—

[*See main edition for text of* (A) *to* (E)]

(2) The Administrator shall transmit such State reports, together with an analysis thereof, to Congress on or before October 1, 1975, and October 1, 1976, and biennially thereafter.

(As amended Dec. 27, 1977, Pub. L. 95–217, § 52, 91 Stat. 1589.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95–217, § 52(1), substituted "April 1, 1975, and shall bring up to date by April 1, 1976, and biennially thereafter" for "January 1, 1975, and shall bring up to date each year thereafter" in the provisions preceding subpar. (A).

Subsec. (b)(2). Pub. L. 95–217, § 52(2), substituted "on or before October 1, 1975, and October 1, 1976, and biennially thereafter" for "on or before October 1, 1975, and annually thereafter".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1311, 1313, 1314, 1317, 1319, 1323, 1326, 1341, 1342, 1364, 1365, 1367, 1369, 1371, 1374 of this title.

§ 1317. Toxic and pretreatment effluent standards

(a) Toxic pollutant list; revision; hearing; promulgation of standards; effective date; consultation

(1) On and after December 27, 1977, the list of toxic pollutants or combination of pollutants subject to this chapter shall consist of those toxic pollutants listed in table 1 of Committee Print Numbered 95–30 of the Committee on Public Works and Transportation of the House of Representatives, and the Administrator shall publish, not later than the thirtieth day after December 27, 1977, that list. From time to time thereafter, the Administrator may revise such list and the Administrator is authorized to add to or remove from such list any pollutant. The Administrator in publishing any revised list, including the addition or removal of any pollutant from such list, shall take into account toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected orga-nisms, and the nature and extent of the effect of the toxic pollutant on such organisms. A determination of the Administrator under this paragraph shall be final except that if, on judicial review, such determination was based on arbitrary and capricious action of the Administrator, the Administrator shall make a redetermination.

(2) Each toxic pollutant listed in accordance with paragraph (1) of this subsection shall be subject to effluent limitations resulting from the application of the best available technology economically achievable for the applicable category or class of point sources established in accordance with sections 1311(b)(2)(A) and 1314(b)(2) of this title. The Administrator, in his discretion, may publish in the Federal Register a proposed effluent standard (which may include a prohibition) establishing requirements for a toxic pollutant which, if an effluent limitation is applicable to a class or category of point sources, shall be applicable to such category or class only if such standard imposes more stringent requirements. Such published effluent standard (or prohibition) shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms, and the extent to which effective control is being or may be achieved under other regulatory authority. The Administrator shall allow a period of not less than sixty days following publication of any such proposed effluent standard (or prohibition) for written comment by interested persons on such proposed standard. In addition, if within thirty days of publication of any such proposed effluent standard (or prohibition) any interested person so requests, the Administrator shall hold a public hearing in connection therewith. Such a public hearing shall provide an opportunity for oral and written presentations, such cross-examination as the Administrator determines is appropriate on disputed issues of material fact, and the transcription of a verbatim record which shall be available to the public. After consideration of such comments and any information and material presented at any public hearing held on such proposed standard or prohibition, the Administrator shall promulgate such standard (or prohibition) with such modification as the Administrator finds are justified. Such promulgation by the Administrator shall be made within two hundred and seventy days after publication of proposed standard (or prohibition). Such standard (or prohibition) shall be final except that if, on judicial review, such standard was not based on substantial evidence, the Administrator shall promulgate a revised standard. Effluent limitations shall be established in accordance with sections 1311(b)(2)(A) and 1314(b)(2) of this title for every toxic pollutant referred to in table 1 of Committee Print Numbered 95–30 of the Committee on Public Works and Transportation of the House of Representatives as soon as practicable after December 27, 1977, but no later than July 1, 1980. Such effluent limitations or effluent standards (or prohibitions) shall be established for every other toxic pollutant listed under paragraph (1) of this subsection as soon as practicable after it is so listed.

(3) Each such effluent standard (or prohibition) shall be reviewed and, if appropriate, revised at least every three years.

[*See main edition for text of* (4) *and* (5)]

(6) Any effluent standard (or prohibition) established pursuant to this section shall take effect on such date or dates as specified in the order promulgating such standard, but in no case, more than one year from the date of such promulgation. If the Administrator determines that compliance within one year from the date of promulgation is technologically infeasible for a category of sources, the Administrator may establish the effective date of the effluent standard (or prohibition) for such category at the earliest date upon which compliance can be feasibly attained by sources within such category, but in no event more than three years after the date of such promulgation.

[*See main edition for text of* (7)]

(b) Pretreatment standards; hearing; promulgation; compliance period; revision; application to State and local laws

(1) The Administrator shall, within one hundred and eighty days after October 18, 1972, and from time to time thereafter, publish proposed regulations establishing pretreatment standards for introduction of pollutants into treatment works (as defined in section 1292 of this title) which are publicly owned for those pollutants which are determined not to be susceptible to treatment by such treatment works or which would interfere with the operation of such treatment works. Not later than ninety days after such publication, and after opportunity for public hearing, the Administrator shall promulgate such pretreatment standards. Pretreatment standards under this subsection shall specify a time for compliance not to exceed three years from the date of promulgation and shall be established to prevent the discharge of any pollutant through treatment works (as defined in section 1292 of this title) which are publicly owned, which pollutant interferes with, passes through, or otherwise is incompatible with such works. If, in the case of any toxic pollutant under subsection (a) of this section introduced by a source into a publicly owned treatment works, the treatment by such works removes all or any part of such toxic pollutant and the discharge from such works does not violate that effluent limitation or standard which would be applicable to such toxic pollutant if it were discharged by such source other than through a publicly owned treatment works, and does not prevent sludge use or disposal by such works in accordance with section 1345 of this title, then the pretreatment requirements for the sources actually discharging such toxic pollutant into such publicly owned treatment works may be revised by the owner or operator of such works to reflect the removal of such toxic pollutant by such works.

[*See main edition for text of* (2) *to* (4); (c) *and* (d)]

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 53(a), (b), 54(a), 91 Stat. 1589-1591.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-217, § 53(a), substituted "On and after December 27, 1977, the list of toxic pollutants or combination of pollutants subject to this chapter shall consist of those toxic pollutants listed in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives, and the Administrator shall publish, not later than the thirtieth day after December 27, 1977, that list" for "The Administrator shall, within ninety days after October 18, 1972, publish (and from time to time thereafter revise) a list which includes any toxic pollutant or combination of such pollutants for which an effluent standard (which may include a prohibition of the discharge of such pollutants or combination of such pollutants) will be established under this section" and added provision for the revision of the list and for the finality of the Administrator's determination except when that determination is arbitrary and capricious.

Subsec. (a)(2). Pub. L. 95-217, § 53(a), expanded provisions covering effluent limitations and the establishment of effluent standards (or prohibitions), introduced provisions relating to the application of the best available technology economically achievable for the applicable category or class of point sources established in accordance with sections 1311(b)(2)(A) and 1314(b)(2) of this title, added provision that published effluent standards take into account the extent to which effective control is being or may be achieved under other regulatory authority, added provision for a sixty day minimum period following publication of proposed effluent standards for written comment, substituted two hundred and seventy days for six months as the period following publication of proposed standards during which period standards (or prohibitions) must be promulgated, and added provision for the finality of effluent limitations (or prohibitions) except if, on judicial review, the standard was not based on substantial evidence.

Subsec. (a)(3). Pub. L. 95-217, § 53(a), struck out provision for the immediate promulgation of revised effluent standards (or prohibitions) for pollutants or combinations of pollutants if, after public hearings, the Administrator found that a modification of such proposed standards (or prohibitions) was justified. See subsec. (a)(2) of this section.

Subsec. (a)(6). Pub. L. 95-217, § 53(b), added provision that if the Administrator determines that compliance with effluent standards (or prohibitions) within one year from the date of promulgation is technologically infeasible for a category of sources, the Administrator may establish the effective date of the effluent standard (or prohibition) for that category at the earliest date upon which compliance can be feasibly attained by sources within such category, but in no event more than three years after the date of such promulgation.

Subsec. (b)(1). Pub. L. 95-217, § 54(a), added provision that if, in the case of any toxic pollutant under subsection (a) of this section introduced by a source into a publicly owned treatment works, the treatment by the works removes all or any part of the toxic pollutant and the discharge from the works does not violate that effluent limitation or standard which would be applicable to the toxic pollutant if it were discharged by the source other than through a publicly owned treatment works, and does not prevent sludge use or disposal by the works in accordance with section 1345 of this title, then the pretreatment requirements for the sources actually discharging the toxic pollutant into the publicly owned treatment works may be revised by the owner or operator of the works to reflect the removal of the toxic pollutant by the works.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1288, 1311, 1313, 1314, 1319, 1323, 1341, 1342, 1344, 1364, 1365, 1367, 1369, 1374 of this title.

§ 1318. Records and reports; inspections

(a) Maintenance; monitoring equipment; entry; access to information

Whenever required to carry out the objective of this chapter, including but not limited to (1) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, or standard of performance under this chapter; (2) determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance; (3) any requirement established under this section; or (4) carrying out sections 1315, 1321, 1342, 1344 (relating to State permit programs), and 1364 of this title—

[See main edition for text of (A) and (B); (b) and (c)]

(As amended Dec. 27, 1977, Pub. L. 95-217, § 67(c)(1), 91 Stat. 1606.)

AMENDMENTS

1977—Subsec. (a)(4). Pub. L. 95-217 added "1344 (relating to State permit programs)," following "sections 1315, 1321, 1342," in the provisions preceding subpar. (A).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1319, 1342, 1344 of this title.

§ 1319. Enforcement

(a) State enforcement; compliance orders

(1) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of any condition or limitation which implements section 1311, 1312, 1316, 1317, 1318, 1328, or 1345 of this title in a permit issued by a State under an approved permit program under section 1342 or 1344 of this title he shall proceed under his authority in paragraph (3) of this subsection or he shall notify the person in alleged violation and such State of such finding. If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order requiring such person to comply with such condition or limitation or shall bring a civil action in accordance with subsection (b) of this section.

(2) Whenever, on the basis of information available to him, the Administrator finds that violations of permit conditions or limitations as set forth in paragraph (1) of this subsection are so widespread that such violations appear to result from a failure of the State to enforce such permit conditions or limitations effectively, he shall so notify the State. If the Administrator finds such failure extends beyond the thirtieth day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such conditions and limitations (hereafter referred to in this section as the period of "federally assumed enforcement"), except where an extension has been granted under paragraph (5)(B) of this subsection, the Administrator shall enforce any permit condition or limitation with respect to any person—

[See main edition for text of (A) and (B)]

(3) Whenever on the basis of any information available to him the Administrator finds that any person is in violation of section 1311, 1312, 1316, 1317, 1318, 1328, or 1345 of this title, or is in violation of any permit condition or limitation implementing any of such sections in a permit issued under section 1342 of this title by him or by a State or in a permit issued under section 1344 of this title by a State, he shall issue an order requiring such person to comply with such section or requirement, or he shall bring a civil action in accordance with subsection (b) of this section.

(4) A copy of any order issued under this subsection shall be sent immediately by the Administrator to the State in which the violation occurs and other affected States. In any case in which an order under this subsection (or notice to a violator under paragraph (1) of this subsection) is issued to a corporation, a copy of such order (or notice) shall be served on any appropriate corporate officers. An order issued under this subsection relating to a violation of section 1318 of this title shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation.

(5)(A) Any order issued under this subsection shall be by personal service, shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance not to exceed thirty days in the case of a violation of an interim compliance schedule or operation and maintenance requirement and not to exceed a time the Administrator determines to be reasonable in the case of a violation of a final deadline, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(B) The Administrator may, if he determines (i) that any person who is a violator of, or any person who is otherwise not in compliance with, the time requirements under this chapter or in any permit issued under this chapter, has acted in good faith, and has made a commitment (in the form of contracts or other securities) of necessary resources to achieve compliance by the earliest possible date after July 1, 1977, but not later than April 1, 1979; (ii) that any extension under this provision will not result in the imposition of any additional controls on any other point or nonpoint source; (iii) that an application for a permit under section 1342 of this title was filed for such person prior to December 31, 1974; and (iv) that the facilities necessary for compliance with such requirements are under construction, grant an extension of the date referred to in section 1311(b)(1)(A) of this title to a date which will achieve compliance at the earliest time possible but not later than April 1, 1979.

(6) Whenever, on the basis of information available to him, the Administrator finds (A) that any person is in violation of section 1311(b)(1)(A) or (C) of this title, (B) that such

person cannot meet the requirements for a time extension under section 1311(i)(2) of this title, and (C) that the most expeditious and appropriate means of compliance with this chapter by such person is to discharge into a publicly owned treatment works, then, upon request of such person, the Administrator may issue an order requiring such person to comply with this chapter at the earliest date practicable, but not later than July 1, 1983, by discharging into a publicly owned treatment works if such works concur with such order. Such order shall include a schedule of compliance.

[*See main edition for text of* (b)]

(c) Criminal penalties

(1) Any person who willfully or negligently violates section 1311, 1312, 1316, 1317, or 1318 of this title, or any permit condition or limitation implementing any of such sections in a permit issued under section 1342 of this title by the Administrator or by a State or in a permit issued under section 1344 of this title by a State, shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

[*See main edition for text of* (2) *and* (3)]

(d) Civil penalties

Any person who violates section 1311, 1312, 1316, 1317, 1318, 1328, or 1345 of this title, or any permit condition or limitation implementing any of such sections in a permit issued under section 1342 of this title by the Administrator, or by a State, or in a permit issued under section 1344 of this title by a State, and any person who violates any order issued by the Administrator under subsection (a) of this section, shall be subject to a civil penalty not to exceed $10,000 per day of such violation.

[*See main edition for text of* (e)]

(f) Wrongful introduction of pollutants into treatments works

Whenever, on the basis of any information available to him, the Administrator finds that an owner or operator of any source is introducing a pollutant into a treatment works in violation of subsection (d) of section 1317 of this title, the Administrator may notify the owner or operator of such treatment works and the State of such violation. If the owner or operator of the treatment works does not commence appropriate enforcement action within 30 days of the date of such notification, the Administrator may commence a civil action for appropriate relief, including but not limited to, a permanent or temporary injunction, against the owner or operator of such treatment works. In any such civil action the Administrator shall join the owner or operator of such source as a party to the action. Such action shall be brought in the district court of the United States in the district in which the treatment works is located. Such court shall have jurisdiction to restrain such violation and to require the owner or operator of the treatment works and the owner or operator of the source to take such action as may be necessary to come into compliance with this chapter. Notice of commencement of any such action shall be given to the State. Nothing in this subsection shall be construed to limit or prohibit any other authority the Administrator may have under this chapter.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 54(b), 55, 56, 67(c)(2), 91 Stat. 1591, 1592, 1606.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-217, §§ 55(a), 67(c)(2)(A), substituted "1318, 1328, or 1345 of this title" for "or 1318 of this title" and "1342 or 1344 of this title" for "1342 of this title".

Subsec. (a)(2). Pub. L. 95-217, § 56(a), substituted "except where an extension has been granted under paragraph (5)(B) of this subsection, the Administrator shall enforce any permit condition or limitation" for "the Administrator shall enforce any permit condition or limitation".

Subsec. (a)(3). Pub. L. 95-217, §§ 55(b), 67(c)(2)(B), substituted "1318, 1328, or 1345 of this title" for "or 1318 of this title" added "or in a permit issued under section 1344 of this title by a State" following "in a permit issued under section 1342 of this title by him or by a State".

Subsec. (a)(4). Pub. L. 95-217, § 56(b), struck out provision that any order issued under this subsection had to be by personal service and had to state with reasonable specificity the nature of the violation and a time for compliance, not to exceed thirty days, which the Administrator determined to be reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. See section subsec. (a)(5) of this section.

Subsec. (a)(5), (6). Pub. L. 95-217, § 56(c), added subsec. (a)(5) and (6).

Subsec. (c)(1). Pub. L. 95-217, § 67(c)(2)(C), substituted "by a State or in a permit issued under section 1344 of this title by a State, shall be punished" for "by a State, shall be punished".

Subsec. (d). Pub. L. 95-217, §§ 55(c), 67(c)(2)(D), substituted "1318, 1328, or 1345 of this title" for "or 1318 of this title" and added "or in a permit issued under section 1344 of this title by a State," following "permit issued under section 1342 of this title by the Administrator, or by a State,".

Subsec. (f). Pub. L. 95-217, § 54(b), added subsec. (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1256, 1321, 1342, 1344, 1364, 1365, 1368 of this title.

§ 1321. Oil and hazardous substance liability

(a) Definitions

For the purpose of this section, the term—

[*See main edition for text of* (1)]

(2) "discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping, but excludes (A) discharges in compliance with a permit under section 1342 of this title, (B) discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 1342 of this title, and subject to a condition in such permit, and (C) continu-

ous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 1342 of this title, which are caused by events occurring within the scope of relevant operating or treatment systems;

[See main edition for text of (3) to (10)]

(11) "offshore facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters, other than a vessel or a public vessel:

[See main edition for text of (12) to (13)]

(14) "hazardous substance" means any substance designated pursuant to subsection (b)(2) of this section;

(15) "inland oil barge" means a non-self-propelled vessel carrying oil in bulk as cargo and certificated to operate only in the inland waters of the United States, while operating in such waters;

(16) "inland waters of the United States" means those waters of the United States lying inside the baseline from which the territorial sea is measured and those waters outside such baseline which are a part of the Gulf Intracoastal Waterway.

(17) "Otherwise subject to the jurisdiction of the United States" means subject to the jurisdiction of the United States by virtue of United States citizenship, United States vessel documentation or numbering, or as provided for by international agreement to which the United States is a party.

(b) Congressional declaration of policy against discharges of oil or hazardous substances; designation of hazardous substances; study of higher standard of care incentives and report to Congress; liability; penalties; civil actions: penalty limitations, separate offenses, jurisdiction, mitigation of damages and costs, recovery of removal costs and alternative remedies

(1) The Congress hereby declares that it is the policy of the United States that there should be no discharges of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.] or the Deepwater Port Act of 1974 [33 U.S.C. 1501 et seq.], or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976 [16 U.S.C. 1801 et seq.]).

(2)(A) The Administrator shall develop, promulgate, and revise as may be appropriate, regulations designating as hazardous substances, other than oil as defined in this section, such elements and compounds which, when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone or in connection with activities under the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.] or the Deepwater Port Act of 1974 [33 U.S.C. 1501 et seq.], or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976 [16 U.S.C. 1801 et seq.]), present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches.

(B) The Administrator shall within 18 months after the date of enactment of this paragraph, conduct a study and report to the Congress on methods, mechanisms, and procedures to create incentives to achieve a higher standard of care in all aspects of the management and movement of hazardous substances on the part of owners, operators, or persons in charge of onshore facilities, offshore facilities, or vessels. The Administrator shall include in such study (1) limits of liability, (2) liability for third party damages, (3) penalties and fees, (4) spill prevention plans, (5) current practices in the insurance and banking industries, and (6) whether the penalty enacted in subclause (bb) of clause (iii) of subparagraph (B) of subsection (b)(2) of section 311 of Public Law 92-500 should be enacted.

(3) The discharge of oil or hazardous substances (i) into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or (ii) in connection with activities under the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.] or the Deepwater Port Act of 1974 [33 U.S.C. 1501 et seq.], or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976 [16 U.S.C. 1801 et seq.]), in such quantities as may be harmful as determined by the President under paragraph (4) of this subsection, is prohibited, except (A) in the case of such discharges of oil into the waters of the contiguous zone or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), where permitted under the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, and (B) where permitted in quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, determine not to be harmful. Any regulations issued under this subsection shall be consistent with maritime safety and with marine and navigation laws and regulations and applicable water quality standards.

(4) The President shall by regulation, determine for the purposes of this section those quantities of oil and any hazardous substances the discharge of which may be harmful to the public health or welfare of the United States, including but not limited to fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

(5) Any person in charge of a vessel or of an onshore facility or an offshore facility shall, as

soon as he has knowledge of any discharge of oil or a hazardous substance from such vessel or facility in violation of paragraph (3) of this subsection, immediately notify the appropriate agency of the United States Government of such discharge. Any such person (A) in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(i) of this subsection, or (B) in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) of this subsection and who is otherwise subject to the jurisdiction of the United States at the time of the discharge, or (C) in charge of an onshore facility or an offshore facility, who fails to notify immediately such agency of such discharge shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both. Notification received pursuant to this paragraph or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

(6)(A) Any owner, operator, or person in charge of any onshore facility or offshore facility from which oil or a hazardous substance is discharged in violation of paragraph (3) of this subsection shall be assessed a civil penalty by the Secretary of the department in which the Coast Guard is operating of not more than $5,000 for each offense. Any owner, operator, or person in charge of any vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(i) of this subsection, and any owner, operator, or person in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) who is otherwise subject to the jurisdiction of the United States at the time of the discharge, shall be assessed a civil penalty by the Secretary of the department in which the Coast Guard is operating of not more than $5,000 for each offense. No penalty shall be assessed unless the owner or operator charged shall have been given notice and opportunity for a hearing on such charge. Each violation is a separate offense. Any such civil penalty may be compromised by such Secretary. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the owner or operator charged, the effect on the owner or operator's ability to continue in business, and the gravity of the violation, shall be considered by such Secretary. The Secretary of the Treasury shall withhold at the request of such Secretary the clearance required by section 91 of title 46 of any vessel the owner or operator of which is subject to the foregoing penalty. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to such Secretary.

(B) The Administrator, taking into account the gravity of the offense, and the standard of care manifested by the owner, operator, or person in charge, may commence a civil action against any such person subject to the penalty under subparagraph (A) of this paragraph to impose a penalty based on consideration of the size of the business of the owner or operator, the effect on the ability of the owner or operator to continue in business, the gravity of the violation, and the nature, extent, and degree of success of any efforts made by the owner, operator, or person in charge to minimize or mitigate the effects of such discharge. The amount of such penalty shall not exceed $50,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, operator, or person in charge, such penalty shall not exceed $250,000. Each violation is a separate offense. Any action under this subparagraph may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to assess such penalty. No action may be commenced under this clause where a penalty has been assessed under clause (A) of this paragraph.

(C) In addition to establishing a penalty for the discharge of a hazardous substance, the Administrator may act to mitigate the damage to the public health or welfare caused by such discharge. The cost of such mitigation shall be deemed a cost incurred under subsection (c) of this section for the removal of such substance by the United States Government.

(D) Any costs of removal incurred in connection with a discharge excluded by subsection (a)(2)(C) of this section shall be recoverable from the owner or operator of the source of the discharge in an action brought under section 1319(b) of this title.

(E) Civil penalties shall not be assessed under both this section and section 1319 of this title for the same discharge.

(c) Removal of discharged oil or hazardous substances; National Contingency Plan

(1) Whenever any oil or a hazardous substance is discharged, or there is a substantial threat of such discharge, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.] or the Deepwater Port Act of 1974 [33 U.S.C. 1501 et seq.], or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976 [16 U.S.C. 1801 et seq.]) the President is authorized to act to remove or arrange for the removal of such oil or substance at any time, unless he determines such removal will be done properly by the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs.

(2) Within sixty days after October 18, 1972, the President shall prepare and publish a National Contingency Plan for removal of oil and hazardous substances, pursuant to this subsection. Such National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal of oil and hazard-

ous substances, and shall include, but not be limited to—

[*See main edition for text of (A) to (C)*]

(D) a system of surveillance and notice designed to insure earliest possible notice of discharges of oil and hazardous substances and imminent threats of such discharges to the appropriate State and Federal agencies;

[*See main edition for text of (E) to (H)*]

The President may, from time to time, as he deems advisable revise or otherwise amend the National Contingency Plan. After publication of the National Contingency Plan, the removal of oil and hazardous substances and actions to minimize damage from oil and hazardous substance discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan.

(d) Maritime disaster discharges

Whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and the public and private shorelines and beaches of the United States, because of a discharge, or an imminent discharge, of large quantities of oil, or of a hazardous substance from a vessel the United States may (A) coordinate and direct all public and private efforts directed at the removal or elimination of such threat; and (B) summarily remove, and, if necessary, destroy such vessel by whatever means are available without regard to any provisions of law governing the employment of personnel or the expenditure of appropriated funds. Any expense incurred under this subsection or under the Intervention on the High Seas Act [33 U.S.C. 1471 et seq.] (or the convention defined in section 2(3) thereof [33 U.S.C. 1471(3)]) shall be a cost incurred by the United States Government for the purposes of subsection (f) of this section in the removal of oil or hazardous substance.

[*See main edition for text of (e)*]

(f) Liability for actual costs of removal

(1) Except where an owner or operator can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) of this section for the removal of such oil or substance by the United States Government in an amount not to exceed, in the case of an inland oil barge $125 per gross ton of such barge, or $125,000, whichever is greater, and in the case of any other vessel, $150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000), whichever is greater, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. Such costs shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States for any district within which any vessel may be found. The United States may also bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.

(2) Except where an owner or operator of an onshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall be liable to the United States Government for the actual costs incurred under subsection (c) of this section for the removal of such oil or substance by the United States Government in an amount not to exceed $50,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such facility in any court of competent jurisdiction to recover such costs. The Administrator is authorized, by regulation, after consultation with the Secretary of Commerce and the Small Business Administration, to establish reasonable and equitable classifications of those onshore facilities having a total fixed storage capacity of 1,000 barrels or less which he determines because of size, type, and location do not present a substantial risk of the discharge of oil or a hazardous substance in violation of subsection (b)(3) of this section, and apply with respect to such classifications differing limits of liability which may be less than the amount contained in this paragraph.

(3) Except where an owner or operator of an offshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) of this section for the removal of such oil or substance by the United States Gov-

ernment in an amount not to exceed $50,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such a facility in any court of competent jurisdiction to recover such costs.

(4) The costs of removal of oil or a hazardous substance for which the owner or operator of a vessel or onshore or offshore facility is liable under subsection (f) of this section shall include any costs or expenses incurred by the Federal Government or any State government in the restoration or replacement of natural resources damaged or destroyed as a result of a discharge of oil or a hazardous substance in violation of subsection (b) of this section.

(5) The President, or the authorized representative of any State, shall act on behalf of the public as trustee of the natural resources to recover for the costs of replacing or restoring such resources. Sums recovered shall be used to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government, or the State government.

(g) Third party liability

Where the owner or operator of a vessel (other than an inland oil barge) carrying oil or hazardous substances as cargo or an onshore or offshore facility which handles or stores oil or hazardous substances in bulk, from which oil or a hazardous substance is discharged in violation of subsection (b) of this section, alleges that such discharge was caused solely by an act or omission of a third party, such owner or operator shall pay to the United States Government the actual costs incurred under subsection (c) of this section for removal of such oil or substance and shall be entitled by subrogation to all rights of the United States Government to recover such costs from such third party under this subsection. In any case where an owner or operator of a vessel, of an onshore facility, or of an offshore facility, from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section, proves that such discharge of oil or hazardous substance was caused solely by an act or omission of a third party, or was caused solely by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government, such third party shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) of this section for removal of such oil or substance by the United States Government, except where such third party can prove that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of another party without regard to whether such act or omission was or was not negligent, or any combination of the foregoing clauses. If such third party was the owner or operator of a vessel which caused the discharge of oil or a hazardous substance in violation of subsection (b)(3) of this section, the liability of such third party under this subsection shall not exceed, in the case of an inland oil barge $125 per gross ton of such barge, or $125,000, whichever is greater, and in the case of any other vessel, $150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000), whichever is greater. In any other case the liability of such third party shall not exceed the limitation which would have been applicable to the owner or operator of the vessel or the onshore or offshore facility from which the discharge actually occurred if such owner or operator were liable. If the United States can show that the discharge of oil or a hazardous substance in violation of subsection (b)(3) of this section was the result of willful negligence or willful misconduct within the privity and knowledge of such third party, such third party shall be liable to the United States Government for the full amount of such removal costs. The United States may bring an action against the third party in any court of competent jurisdiction to recover such removal costs.

[*See main edition for text of (h)*]

(i) Recovery of removal costs

[*See main edition for text of (1)*]

(2) The provisions of this subsection shall not apply in any case where liability is established pursuant to the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.], or the Deepwater Port Act of 1974 [33 U.S.C. 1501 et seq.].

(3) Any amount paid in accordance with a judgment of the United States Court of Claims pursuant to this section shall be paid from the funds established pursuant to subsection (k) of this section.

(j) Regulations; penalty

[*See main edition for text of (1)*]

(2) Any owner or operator of a vessel or an onshore facility or an offshore facility and any other person subject to any regulation issued under paragraph (1) of this subsection who fails or refuses to comply with the provisions of any such regulations, shall be liable to a civil penalty of not more than $5,000 for each such violation. This paragraph shall not apply to any owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) of subsection (b) of this section unless such owner, operator, or person in charge is otherwise subject to the jurisdiction of the United States. Each violation shall be a separate offense. The President may assess and compromise such penalty. No penalty shall be assessed until the owner, operator, or other person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the owner, operator, or other person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by the President.

(k) Authorization of appropriations

There is hereby authorized to be appropriated to a revolving fund to be established in the Treasury such sums as may be necessary to maintain such fund at a level of $35,000,000 to carry out the provisions of subsections (c), (d), (l), and (*l*) of this section. Any other funds received by the United States under this section shall also be deposited in said fund for such purposes. All sums appropriated to, or deposited in, said fund shall remain available until expended.

[See main edition for text of (l) to (o)]

(p) Financial responsibility

(1) Any vessel over three hundred gross tons, including any barge of equivalent size, but not including any barge that is not self-propelled and that does not carry oil or hazardous substances as cargo or fuel, using any port or place in the United States or the navigable waters of the United States for any purpose shall establish and maintain under regulations to be prescribed from time to time by the President, evidence of financial responsibility of, in the case of an inland oil barge $125 per gross ton of such barge, or $125,000, whichever is greater, and in the case of any other vessel, $150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000), whichever is greater, to meet the liability to the United States which such vessel could be subjected under this section. In cases where an owner or operator owns, operates, or charters more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one of, or a combination of, the following methods acceptable to the President: (A) evidence of insurance, (B) surety bonds, (C) qualification as a self-insurer, or (D) other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States.

[See main edition for text of (2) to (6)]

(q) Establishment of maximum limit of liability with respect to onshore or offshore facilities

The President is authorized to establish, with respect to any class or category of onshore or offshore facilities, a maximum limit of liability under subsections (f)(2) and (3) of this section of less than $50,000,000, but not less than $8,000,000.

(r) Liability limitations not to limit liability under other legislation

Nothing in this section shall be construed to impose, or authorize the imposition of, any limitation on liability under the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.] or the Deepwater Port Act of 1974 [33 U.S.C. 1501 et seq.].

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 57, 58(a)-(g), (i), (k)-(m), 91 Stat. 1593-1596; Nov. 2, 1978, Pub. L. 95-576, § 1(b), 92 Stat. 2467.)

REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in subsecs. (b)(1), (2)(A), (3), (c)(1), (l)(2), and (r), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§ 1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables.

The Deepwater Port Act of 1974, referred to in subsecs. (b)(1), (2)(A), (3), (c)(1), (l)(2), and (r), is Pub. L. 93-627, Jan. 3, 1975, 88 Stat. 2126, as amended, which is classified generally to chapter 29 (§ 1501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

The Fishery Conservation and Management Act of 1976, referred to in subsecs. (b)(1), (2)(A), (3), and (c)(1), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, which is classified principally to chapter 38 (§ 1801 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 16 and Tables.

The date of enactment of this paragraph, referred to in subsec. (b)(2)(B), probably means the date of enactment of Pub. L. 95-576, which amended subsec. (b)(2)(B) and which was approved Nov. 2, 1978.

The penalty enacted in subclause (bb) of clause (iii) of subparagraph (B) of subsection (b)(2) of section 311 of Public Law 92-500, referred to in subsec. (b)(2)(B)(6), probably means the penalty provision of subsec. (b)(2)(B)(iii)(bb) of this section as added by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 864, prior to the amendment to subsec. (b)(2)(B) by section 1(b)(3) of Pub. L. 95-576. Prior to amendment, subsec. (b)(2)(B)(iii)(bb) read as follows: "a penalty determined by the number of units discharged multiplied by the amount established for such unit under clause (iv) of this subparagraph, but such penalty shall not be more than $5,000,000 in the case of a discharge from a vessel and $500,000 in the case of a discharge from an onshore or offshore facility."

The Intervention on the High Seas Act, referred to in subsecs. (c)(1), is Pub. L. 93-248, Feb. 5, 1974, 88 Stat. 8, which is classified generally to chapter 28 (§ 1471 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1471 of this title and Tables.

AMENDMENTS

1978—Subsec. (a)(2). Pub. L. 95-576, § 1(b)(1), excluded discharges described in clauses (A) to (C) from the term "discharge".

Subsec. (a)(17). Pub. L. 95-576, § 1(b)(2), added par. (17).

Subsec. (b)(2)(B). Pub. L. 95-576, § 1(b)(3), substituted requirement that a study be made respecting methods, mechanisms, and procedures for creating incentives to achieve higher standard of care in management and movement of hazardous substances, including consideration of enumerated items, and a report made to Congress within 18 months after Nov. 2, 1978, for provisions concerning actual removability of any designated hazardous substance, liability during two year period commencing Oct. 18, 1972 based on toxicity, degradability, and dispersal characteristics of the substance limited to $50,000 and without limitation in cases of willful negligence or willful misconduct, liability after such two year period ranging from $500 to $5,000 based on toxicity, etc., or liability for penalty determined by number of units discharged multiplied by amount established for the unit limited to $5,000,000 in the case of a discharge from a vessel and to $500,000 in the case of a discharge from onshore or offshore facility, establishment by regulation of a unit of measurement based upon the usual trade practice for each designated hazardous substance and establishment for such unit a fixed monetary amount ranging from $100 to $1,000 based on toxicity, etc.

Subsec. (b)(3). Pub. L. 95-576, § 1(b)(4), substituted "such quantities as may be harmful" for "harmful quantities".

Subsec. (b)(4). Pub. L. 95-576, § 1(b)(5), struck out ", to be issued as soon as possible after October 18, 1972," following "regulation" and substituted "substances" for "substance" and "discharge of which may be harmful" for "discharge of which, at such times, locations, circumstances, and conditions, will be harmful".

Subsec. (b)(5). Pub. L. 95-576, § 1(b)(6), inserted after "otherwise subject to the jurisdiction of the United States" the phrase "at the time of the discharge".

Subsec. (b)(6)(A) to (E). Pub. L. 95-576, § 1(b)(7), designated existing provisions as subpar. (A), and in subpar. (A) as so designated, inserted "at the time of the discharge" following "jurisdiction of the United States", and added subpars. (B) to (E).

1977—Subsec. (a)(11). Pub. L. 95-217, § 58(k), added ", and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters," following "United States".

Subsec. (a)(15), (16). Pub. L. 95-217, § 58(d)(1), added subsec. (a)(15) and (16).

Subsec. (b)(1). Pub. L. 95-217, § 58(a)(1), added reference to activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976).

Subsec. (b)(2)(A). Pub. L. 95-217, § 58(a)(2), added reference to activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976).

Subsec. (b)(2)(B)(v). Pub. L. 95-217, § 57, added subsec. (b)(2)(B)(v).

Subsec. (b)(3). Pub. L. 95-217, § 58(a)(3), (4), designated a part of the existing provisions preceding cl. (A) as cl. (i) and added cl. (ii), and, in cl. (A), added "or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976)" following "waters of the contiguous zone" and struck out "article IV of" preceding "the International Convention for the Prevention of Pollution of the Sea by Oil, 1954".

Subsec. (b)(4). Pub. L. 95-217, § 58(a)(5), struck out provisions under which, in the case of the discharge of oil into or upon the waters of the contiguous zone, only those discharges which threatened the fishery resources of the contiguous zone or threatened to pollute or contribute to the pollution of the territory or the territorial sea of the United States could be determined to be harmful.

Subsec. (b)(5). Pub. L. 95-217, § 58(a)(6), added cls. (A), (B), and (C) between "Any such person" and "who fails to notify".

Subsec. (b)(6). Pub. L. 95-217, § 58(a)(7), (8), substituted "Any owner, operator, or person in charge of any onshore facility, or offshore facility" for "Any owner or operator of any vessel, onshore facility, or offshore facility" in the provision relating to violations of par. (3) of this subsection, and added provisions directing the assessment of a civil penalty of not more than $5,000 for each offense by the Secretary of the department in which the Coast Guard is operating to be assessed against any owner, operator, or person in charge of any vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(i) of this subsection, and any owner, operator, or person in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) who is otherwise subject to the jurisdiction of the United States.

Subsec. (c)(1). Pub. L. 95-217, § 58(b), (c)(1), added "or there is a substantial threat of such discharge," following "Whenever any oil or a hazardous substance is discharged," and "or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976)" following "waters of the contiguous zone,".

Subsec. (c)(2)(D). Pub. L. 95-217, § 58(e), substituted "and imminent threats of such discharges to the appropriate State and Federal agencies;" for "to the appropriate Federal agency;".

Subsec. (d). Pub. L. 95-217, § 58(c)(2), added "or under the Intervention on the High Seas Act (or the convention defined in section 2(3) thereof)" following "Any expense incurred under this subsection".

Subsec. (f)(1). Pub. L. 95-217, § 58(d)(2), substituted ", in the case of an inland oil barge $125 per gross ton of such barge, or $125,000, whichever is greater, and in the case of any other vessel, $150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000), whichever is greater," for "$100 per gross ton of such vessel or $14,000,000, whichever is lesser,".

Subsec. (f)(2). Pub. L. 95-217, § 58(d)(5), substituted "$50,000,000" for "$8,000,000".

Subsec. (f)(3). Pub. L. 95-217, § 58(d)(6), substituted "$50,000,000" for "$8,000,000".

Subsec. (f)(4), (5). Pub. L. 95-217, § 58(g), added subsec. (f)(4) and (5).

Subsec. (g). Pub. L. 95-217, § 58(d)(3), (f), substituted ", in the case of an inland oil barge $125 per gross ton of such barge, or $125,000, whichever is greater, and in the case of any other vessel, $150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000), whichever is greater" for "$100 per gross ton of such vessel or $14,000,000, whichever is the lesser" in the existing provisions and added provision under which, where the owner or operator of a vessel (other than an inland oil barge) carrying oil or hazardous substances as cargo or an onshore or offshore facility which handles or stores oil or hazardous substances in bulk, from which oil or a hazardous substance is discharged in violation of subsec. (b) of this section, alleges that the discharge was caused solely by an act or omission of a third party, the owner or operator must pay to the United States Government the actual costs incurred under subsec. (c) of this section for removal of the oil or substance and shall be entitled by subrogation to all rights of the United States Government to recover the costs from the third party under this subsection.

Subsec. (i)(2). Pub. L. 95-217, § 58(m), added reference to the Deepwater Port Act of 1974.

Subsec. (j)(2). Pub. L. 95-217, § 58(c)(3), added provision that subsec. (j)(2) shall not apply to any owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of subsec. (b)(3)(ii) of this section unless the owner, operator, or person in charge is otherwise subject to the jurisdiction of the United States.

Subsec. (k). Pub. L. 95-217, § 58(*l*), substituted "such sums as may be necessary to maintain such fund at a level of $35,000,000" for "not to exceed $35,000,000".

Subsec. (p)(1). Pub. L. 95-217, § 58(d)(4), substituted ", in the case of an inland oil barge $125 per gross ton of such barge, or $125,000, whichever is greater, and in the case of any other vessel, $150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000), whichever is greater," for "$100 per gross ton, or $14,000,000 whichever is the lesser,".

Subsecs. (q), (r). Pub. L. 95-217, § 58(i), added subsecs. (q) and (r).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 58(h) of Pub. L. 95-217 provided that: "The amendments made by paragraphs (5) and (6) of subsection (d) of this section [substituting "$50,000,000" for "$8,000,000" in subsec. (f)(2) and substituting "$50,000,000" for "$8,000,000" in subsec. (f)(3) of this section] shall take effect 180 days after the date of enactment of the Clean Water Act of 1977 [Dec. 27, 1977]."

ALLOWABLE DELAY IN ESTABLISHING FINANCIAL RESPONSIBILITY FOR INCREASE IN AMOUNTS UNDER 1977 AMENDMENT

Section 58(j) of Pub. L. 95-217 provided that: "No vessel subject to the increased amounts which result from the amendments made by subsections (d)(2), (d)(3), and (d)(4) of this section [amending subsecs. (f)(1), (g), and (p)(1) of this section] shall be required to establish any evidence of financial responsibility under section 311(p) of the Federal Water Pollution Control Act [subsec. (p) of this section] for such increased amounts before October 1, 1978."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1014, 1314, 1318, 1364, 1376, 1402, 1486, 1517 of this title; title 43 sections 1653, 1811, 1821; title 46 section 391a.

§ 1322. Marine sanitation devices

(a) Definitions

For the purpose of this section, the term—

[*See main edition for text of (1) to (5)*]

(6) "sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes except that, with respect to commercial vessels on the Great Lakes, such term shall include graywater;

[*See main edition for text of (7) and (8)*]

(9) "discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;

(10) "commercial vessels" means those vessels used in the business of transporting property for compensation or hire, or in transporting property in the business of the owner, lessee, or operator of the vessel;

(11) "graywater" means galley, bath, and shower water.

(b) Federal standards of performance

(1) As soon as possible, after October 18, 1972, and subject to the provisions of section 1254(j) of this title, the Administrator, after consultation with the Secretary of the department in which the Coast Guard is operating, after giving appropriate consideration to the economic costs involved, and within the limits of available technology, shall promulgate Federal standards of performance for marine sanitation devices (hereafter in this section referred to as "standards") which shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters from new vessels and existing vessels, except vessels not equipped with installed toilet facilities. Such standards and standards established under subsection (c)(1)(B) of this section shall be consistent with maritime safety and the marine and navigation laws and regulations and shall be coordinated with the regulations issued under this subsection by the Secretary of the department in which the Coast Guard is operating. The Secretary of the department in which the Coast Guard is operating shall promulgate regulations, which are consistent with standards promulgated under this subsection and subsection (c) of this section and with maritime safety and the marine and navigation laws and regulations governing the design, construction, installation, and operation of any marine sanitation device on board such vessels.

[*See main edition for text of (2)*]

(c) Initial standards; effective dates; revision; waiver

(1)(A) Initial standards and regulations under this section shall become effective for new vessels two years after promulgation; and for existing vessels five years after promulgation. Revisions of standards and regulations shall be effective upon promulgation, unless another effective date is specified, except that no revision shall take effect before the effective date of the standard or regulation being revised.

(B) The Administrator shall, with respect to commercial vessels on the Great Lakes, establish standards which require at a minimum the equivalent of secondary treatment as defined under section 1314(d) of this title. Such standards and regulations shall take effect for existing vessels after such time as the Administrator determines to be reasonable for the upgrading of marine sanitation devices to attain such standard.

[*See main edition for text of (2); (d) and (e)*]

(f) Regulation by States or political subdivisions thereof; complete prohibition upon discharge of sewage

[*See main edition for text of (1) to (3)*]

(4)(A) If the Administrator determines upon application by a State that the protection and enhancement of the quality of specified waters within such State requires such a prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into such waters.

(B) Upon application by a State, the Administrator shall, by regulation, establish a drinking water intake zone in any waters within such State and prohibit the discharge of sewage from vessels within that zone.

[*See main edition for text of (g) to (m)*]

(As amended Dec. 27, 1977, Pub. L. 95-217, § 59, 91 Stat. 1596.)

AMENDMENTS

1977—Subsec. (a)(6). Pub. L. 95-217, § 59(a), added "except that, with respect to commercial vessels on the Great Lakes, such term shall include graywater" following "receive or retain body wastes".

Subsec. (a) (10), (11). Pub. L. 95-217, § 59(b), added subsec. (a) (10) and (11).

Subsec. (b)(1). Pub. L. 95-217, § 59(c), added references to standards established under subsec. (c)(1)(B) of this section and to standards promulgated under subsec. (c) of this section.

Subsec. (c)(1). Pub. L. 95-217, § 59(d), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (f)(4). Pub. L. 95-217, § 59(e), designated existing provisions as subpar. (A) and added subpar. (B).

§ 1323. Federal facilities pollution control

(a) Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants, and each officer, agent, or employee thereof in the performance of his official duties, shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution in the same manner, and to the same extent as any nongovernmental entity including the payment of reasonable service charges. The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits and any other requirement, whatsoever), (B) to the exercise of any Federal, State, or local administrative authority, and (C) to any process and sanction, whether enforced in Federal, State, or local courts or in any other manner. This subsection shall apply notwithstanding any immunity of such agencies, officers, agents, or employees under any law or rule of law. Nothing in this section shall be construed to prevent any department, agency, or instrumentality of the Federal Government, or any officer, agent, or employee thereof in the performance of his official duties, from removing to the appropriate Federal district court any proceeding to which the department, agency, or instrumentality or officer, agent, or employee thereof is subject pursuant to this section, and any such proceeding may be removed in accordance with section 1441 et seq. of title 28. No officer, agent, or employee of the United States shall be personally liable for any civil penalty arising from the performance of his official duties, for which he is not otherwise liable, and the United States shall be liable only for those civil penalties arising under Federal law or imposed by a State or local court to enforce an order or the process of such court. The President may exempt any effluent source of any department, agency, or instrumentality in the executive branch from compliance with any such a requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption may be granted from the requirements of section 1316 or 1317 of this title. No such exemptions shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption. In addition to any such exemption of a particular effluent source, the President may, if he determines it to be in the paramount interest of the United States to do so, issue regulations exempting from compliance with the requirements of this section any weaponry, equipment, aircraft, vessels, vehicles, or other classes or categories of property, and access to such property, which are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State and which are uniquely military in nature. The President shall reconsider the need for such regulations at three-year intervals.

(b)(1) The Administrator shall coordinate with the head of each department, agency, or instrumentality of the Federal Government having jurisdiction over any property or facility utilizing federally owned wastewater facilities to develop a program of cooperation for utilizing wastewater control systems utilizing those innovative treatment processes and techniques for which guidelines have been promulgated under section 1314(d)(3) of this title. Such program shall include an inventory of property and facilities which could utilize such processes and techniques.

(2) Construction shall not be initiated for facilities for treatment of wastewater at any Federal property or facility after September 30, 1979, if alternative methods for wastewater treatment at such property or facility utilizing innovative treatment processes and techniques, including but not limited to methods utilizing recycle and reuse techniques and land treatment are not utilized, unless the life cycle cost of the alternative treatment works exceeds the life cycle cost of the most cost effective alternative by more than 15 per centum. The Administrator may waive the application of this paragraph in any case where the Administrator determines it to be in the public interest, or that compliance with this paragraph would interfere with the orderly compliance with conditions of a permit issued pursuant to section 1342 of this title.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 60, 61(a), 91 Stat. 1597, 1598.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217, §§ 60, 61(a), designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, added provisions making officers, agents, or employees of Federal departments, agencies, or instrumentalities subject to Federal, State, interstate, and local requirements, administrative authority, process, and sanctions respecting the control and abatement of water pollution in the same manner and to the same extent as non-governmental entities, including the payment of reasonable service charges, added provisions covering Federal employee liability, and added provisions relating to military source exemptions and the issuance of regulations covering those exemptions.

Subsec. (b). Pub. L. 95-217, § 60, added subsec. (b).

§ 1324. Clean lakes

[*See main edition for text of* (a)]

(b) The Administrator shall provide financial assistance to States in order to carry out methods and procedures approved by him under this section. The Administrator shall provide finan-

cial assistance to States to prepare the identification and classification surveys required in subsection (a)(1) of this section.

(c)(1) The amount granted to any State for any fiscal year under this section shall not exceed 70 per centum of the funds expended by such State in such year for carrying out approved methods and procedures under this section.

(2) There is authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973; $100,000,000 for the fiscal year 1974; $150,000,000 for the fiscal year 1975, $50,000,000 for fiscal year 1977, $60,000,000 for fiscal year 1978, $60,000,000 for fiscal year 1979, and $60,000,000 for fiscal year 1980 for grants to States under this section which such sums shall remain available until expended. The Administrator shall provide for an equitable distribution of such sums to the States with approved methods and procedures under this section.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 4(f), 62(a), 91 Stat. 1567, 1598.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-217, § 62(a), added provision directing the Administrator to provide financial assistance to States to prepare the identification and classification surveys required in subsec. (a)(1) of this section.

Subsec. (c)(2). Pub. L. 95-217, § 4(f), substituted "$150,000,000 for the fiscal year 1975, $50,000,000 for fiscal year 1977, $60,000,000 for fiscal year 1978, $60,000,000 for fiscal year 1979, and $60,000,000 for fiscal year 1980" for "and $150,000,000 for the fiscal year 1975".

§ 1328. Aquaculture

(a) Authority to permit discharge of specific pollutants

The Administrator is authorized, after public hearings, to permit the discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project under Federal or State supervision pursuant to section 1342 of this title.

(b) Procedures and guidelines

The Administrator shall by regulation establish any procedures and guidelines which the Administrator deems necessary to carry out this section. Such regulations shall require the application to such discharge of each criterion, factor, procedure, and requirement applicable to a permit issued under section 1342 of this title, as the Administrator determines necessary to carry out the objective of this chapter.

(c) State administration

Each State desiring to administer its own permit program within its jurisdiction for discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project may do so if upon submission of such program the Administrator determines such program is adequate to carry out the objective of this chapter.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 63, 91 Stat. 1599.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217 added "pursuant to section 1342 of this title" following "Federal or State supervision".

Subsec. (b). Pub. L. 95-217 struck out ", not later than January 1, 1974," following "The Administrator shall by regulation" in existing provisions and added provisions that the regulations require the application to the discharge of each criterion, factor, procedure, and requirement applicable to a permit issued under section 1342 of this title, as the Administrator determines necessary to carry out the objectives of this chapter.

Subsec. (c). Pub. L. 95-217 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1311, 1319, 1342 of this title.

SUBCHAPTER IV—PERMITS AND LICENSES

§ 1341. Certification

(a) Compliance with applicable requirements; application; procedures; license suspension

(1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 1311, 1312, 1313, 1316, and 1317 of this title. In the case of any such activity for which there is not an applicable effluent limitation or other limitation under sections 1311(b) and 1312 of this title, and there is not an applicable standard under sections 1316 and 1317 of this title, the State shall so certify, except that any such certification shall not be deemed to satisfy section 1371(c) of this title. Such State or interstate agency shall establish procedures for public notice in the case of all applications for certification by it and, to the extent it deems appropriate, procedures for public hearings in connection with specific applications. In any case where a State or interstate agency has no authority to give such a certification, such certification shall be from the Administrator. If the State, interstate agency, or Administrator, as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Administrator, as the case may be.

[*See main edition for text of* (2)]

(3) The certification obtained pursuant to paragraph (1) of this subsection with respect to

the construction of any facility shall fulfill the requirements of this subsection with respect to certification in connection with any other Federal license or permit required for the operation of such facility unless, after notice to the certifying State, agency, or Administrator, as the case may be, which shall be given by the Federal agency to whom application is made for such operating license or permit, the State, or if appropriate, the interstate agency or the Administrator, notifies such agency within sixty days after receipt of such notice that there is no longer reasonable assurance that there will be compliance with the applicable provisions of sections 1311, 1312, 1313, 1316, and 1317 of this title because of changes since the construction license or permit certification was issued in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, (C) the water quality criteria applicable to such waters or (D) applicable effluent limitations or other requirements. This paragraph shall be inapplicable in any case where the applicant for such operating license or permit has failed to provide the certifying State, or, if appropriate, the interstate agency or the Administrator, with notice of any proposed changes in the construction or operation of the facility with respect to which a construction license or permit has been granted, which changes may result in violation of section 1311, 1312, 1313, 1316, or 1317 of this title.

(4) Prior to the initial operation of any federally licensed or permitted facility or activity which may result in any discharge into the navigable waters and with respect to which a certification has been obtained pursuant to paragraph (1) of this subsection, which facility or activity is not subject to a Federal operating license or permit, the licensee or permittee shall provide an opportunity for such certifying State, or, if appropriate, the interstate agency or the Administrator to review the manner in which the facility or activity shall be operated or conducted for the purposes of assuring that applicable effluent limitations or other limitations or other applicable water quality requirements will not be violated. Upon notification by the certifying State, or if appropriate, the interstate agency or the Administrator that the operation of any such federally licensed or permitted facility or activity will violate applicable effluent limitations or other limitations or other water quality requirements such Federal agency may, after public hearing, suspend such license or permit. If such license or permit is suspended, it shall remain suspended until notification is received from the certifying State, agency, or Administrator, as the case may be, that there is reasonable assurance that such facility or activity will not violate the applicable provisions of section 1311, 1312, 1313, 1316, or 1317 of this title.

(5) Any Federal license or permit with respect to which a certification has been obtained under paragraph (1) of this subsection may be suspended or revoked by the Federal agency issuing such license or permit upon the entering of a judgment under this chapter that such facility or activity has been operated in violation of the applicable provisions of section 1311, 1312, 1313, 1316, or 1317 of this title.

(6) Except with respect to a permit issued under section 1342 of this title, in any case where actual construction of a facility has been lawfully commenced prior to April 3, 1970, no certification shall be required under this subsection for a license or permit issued after April 3, 1970, to operate such facility, except that any such license or permit issued without certification shall terminate April 3, 1973, unless prior to such termination date the person having such license or permit submits to the Federal agency which issued such license or permit a certification and otherwise meets the requirements of this section.

[(7) Redesignated (6)]

(b) Compliance with other provisions of law setting applicable water quality requirements

Nothing in this section shall be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with any applicable water quality requirements. The Administrator shall, upon the request of any Federal department or agency, or State or interstate agency, or applicant, provide, for the purpose of this section, any relevant information on applicable effluent limitations, or other limitations, standards, regulations, or requirements, or water quality criteria, and shall, when requested by any such department or agency or State or interstate agency, or applicant, comment on any methods to comply with such limitations, standards, regulations, requirements, or criteria.

[*See main edition for text of* (c) *and* (d)]

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 61(b), 64, 91 Stat. 1598, 1599.)

CODIFICATION

Subsec. (b) is set out in this supplement to correct a typographical error.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217 added reference to section 1313 of this title in pars. (1), (3), (4), and (5), struck out par. (6) which had provided that no Federal agency be deemed an applicant for the purposes of this subsection, and redesignated former par. (7) as (6).

§ 1342. National pollutant discharge elimination system

(a) Permits for discharge of pollutants

[*See main edition for text of* (1) *to* (4)]

(5) No permit for a discharge into the navigable waters shall be issued under section 407 of this title after October 18, 1972. Each application for a permit under section 407 of this title, pending on October 18, 1972, shall be deemed to be an application for a permit under this section. The Administrator shall authorize a State, which he determines has the capability of administering a permit program which will carry out the objectives of this chapter to issue permits for discharges into the navigable waters within the jurisdiction of such State. The Ad-

ministrator may exercise the authority granted him by the preceding sentence only during the period which begins on October 18, 1972, and ends either on the ninetieth day after the date of the first promulgation of guidelines required by section 1314(i)(2) of this title, or the date of approval by the Administrator of a permit program for such State under subsection (b) of this section, whichever date first occurs, and no such authorization to a State shall extend beyond the last day of such period. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out the provisions of this chapter. No such permit shall issue if the Administrator objects to such issuance.

(b) State permit programs

At any time after the promulgation of the guidelines required by subsection (i)(2) of section 1314 of this title, the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each submitted program unless he determines that adequate authority does not exist:

(1) To issue permits which—

(A) apply, and insure compliance with, any applicable requirements of sections 1311, 1312, 1316, 1317, and 1343 of this title;

(B) are for fixed terms not exceeding five years; and

(C) can be terminated or modified for cause including, but not limited to, the following:

(i) violation of any condition of the permit;

(ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

(iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(D) control the disposal of pollutants into wells;

[See main edition for text of (2) to (7)]

(8) To insure that any permit for a discharge from a publicly owned treatment works includes conditions to require the identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under section 1317(b) of this title into such works and a program to assure compliance with such pretreatment standards by each such source, in addition to adequate notice to the permitting agency of (A) new introductions into such works of pollutants from any source which would be a new source as defined in section 1316 of this title if such source were discharging pollutants, (B) new introductions of pollutants into such works from a source which would be subject to section 1311 of this title if it were discharging such pollutants, or (C) a substantial change in volume or character of pollutants being introduced into such works by a source introducing pollutants into such works at the time of issuance of the permit. Such notice shall include information on the quality and quantity of effluent to be introduced into such treatment works and any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works; and

[See main edition for text of (9)]

(c) Suspension of federal program upon submission of State program; withdrawal of approval of State program

(1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section as to those navigable waters subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 1314(i)(2) of this title. If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements or guidelines.

(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 1314(i)(2) of this title.

(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(d) Notification of Administrator

[See main edition for text of (1)]

(2) No permit shall issue (A) if the Administrator within ninety days of the date of his notification under subsection (b)(5) of this section objects in writing to the issuance of such permit, or (B) if the Administrator within ninety days of the date of transmittal of the proposed permit by the State objects in writing to the issuance of such permit as being outside the guidelines and requirements of this chapter. Whenever the Administrator objects to the issuance of a permit under this paragraph such written objection shall contain a statement of the reasons for such objection and the effluent limitations and conditions which such permit would include if it were issued by the Administrator.

(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

(4) In any case where, after December 27, 1977, the Administrator, pursuant to paragraph (2) of this subsection, objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing, or, if no hearing is requested within 90 days after the date of such objection, the Administrator may issue the permit pursuant to subsection (a) of this section for such source in accordance with the guidelines and requirements of this chapter.

(e) Waiver of notification requirement

In accordance with guidelines promulgated pursuant to subsection (i)(2) of section 1314 of this title, the Administrator is authorized to waive the requirements of subsection (d) of this section at the time he approves a program pursuant to subsection (b) of this section for any category (including any class, type, or size within such category) of point sources within the State submitting such program.

[See main edition for text of (f) to (g)]

(h) Violation of permit conditions; restriction or prohibition upon introduction of pollutant by source not previously utilizing treatment works

In the event any condition of a permit for discharges from a treatment works (as defined in section 1292 of this title) which is publicly owned is violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved or where the Administrator determines pursuant to section 1319(a) of this title that a State with an approved program has not commenced appropriate enforcement action with respect to such permit, may proceed in a court of competent jurisdiction to restrict or prohibit the introduction of any pollutant into such treatment works by a source not utilizing such treatment works prior to the finding that such condition was violated.

[See main edition for text of (i) to (k)]

(l) Irrigation return flows

The Administrator shall not require a permit under this section for discharges composed entirely of return flows from irrigated agriculture, nor shall the Administrator directly or indirectly, require any State to require such a permit.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 33(c), 50, 54(c)(1), 65, 66, 91 Stat. 1577, 1588, 1591, 1599, 1600.)

CODIFICATION

Subsecs. (b)(1)(C)(ii) and (c)(3) are set out in this supplement to correct typographical errors.

AMENDMENTS

1977—Subsec. (a)(5). Pub. L. 95-217, § 50, substituted "section 1314(l)(2)" for "section 1314(h)(2)".

Subsec. (b). Pub. L. 95-217, § 50, substituted in the material preceding par. (1) "subsection (i)(2) of section 1314" for "subsection (h)(2) of section 1314".

Subsec. (b)(8). Pub. L. 95-217, § 54(c)(1), added reference to the identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under section 1317(b) of this title into treatment works and programs to assure compliance with pretreatment standards by each source.

Subsec. (c)(1), (2). Pub. L. 95-217, § 50, substituted "section 1314(l)(2)" for "section 1314(h)(2)".

Subsec. (d)(2). Pub. L. 95-217, § 65(b), added provision requiring that, whenever the Administrator objects to the issuance of a permit under subsec. (d)(2) of this section, the written objection contain a statement of the reasons for the objection and the effluent limitations and conditions which the permit would include if it were issued by the Administrator.

Subsec. (d)(4). Pub. L. 95-217, § 65(a), added subsec. (d)(4).

Subsec. (e). Pub. L. 95-217, § 50, substituted "subsection (l)(2) of section 1314" for "subsection (h)(2) of section 1314".

Subsec. (h). Pub. L. 95-217, § 66, substituted "where no State program is approved or where the Administrator determines pursuant to section 1319(a) of this title that a State with an approved program has not commenced appropriate enforcement action with respect to such permit," for "where no State program is approved,".

Subsec. (l). Pub. L. 95-217, § 33(c), added subsec. (l).

ALLOWABLE DELAY IN MODIFYING EXISTING APPROVED STATE PERMIT PROGRAMS TO CONFORM TO 1977 AMENDMENT

Section 54(c)(2) of Pub. L. 95-217 provided that: "Any State permit program approved under section 402 of the Federal Water Pollution Control Act [this section] before the date of enactment of the Clean Water Act of 1977 [Dec. 27, 1977], which requires modification to conform to the amendment made by paragraph (1) of this subsection [amending subsec. (b)(8) of this section], shall not be required to be modified before the end of the one year period which begins on the date of enactment of the Clean Water Act of 1977 unless in order to make the required modification a State must amend or enact a law in which case such modification shall not be required for such State before the end of the two year period which begins on such date of enactment."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1251, 1285, 1288, 1311, 1314, 1318, 1319, 1321, 1323, 1328, 1341, 1343, 1344, 1345, 1364, 1365, 1369, 1371, 1373 of this title; title 42 section 6903.

§ 1343. Ocean discharge criteria

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1254, 1288, 1314, 1342, 1344, 1364 of this title.

§ 1344. Permits for dredged or fill material

(a) Discharge into navigable waters at specified disposal sites

The Secretary may issue permits, after notice and opportunity for public hearings for the discharge of dredged or fill material into the navigable waters at specified disposal sites. Not later than the fifteenth day after the date an applicant submits all the information required to complete an application for a permit under this subsection, the Secretary shall publish the notice required by this subsection.

(b) Specification for disposal sites

Subject to subsection (c) of this section, each such disposal site shall be specified for each

such permit by the Secretary of the Army (1) through the application of guidelines developed by the Administrator, in conjunction with the Secretary, which guidelines shall be based upon criteria comparable to the criteria applicable to the territorial seas, the contiguous zone, and the ocean under section 1343(c) of this title, and (2) in any case where such guidelines under clause (1) alone would prohibit the specification of a site, through the application additionally of the economic impact of the site on navigation and anchorage.

(c) Denial or restriction of use of defined areas as disposal sites

The Administrator is authorized to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and he is authorized to deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. Before making such determination, the Administrator shall consult with the Secretary. The Administrator shall set forth in writing and make public his findings and his reasons for making any determination under this subsection.

(d) Definition

The term "Secretary" as used in this section means the Secretary of the Army, acting through the Chief of Engineers.

(e) General permits on State, regional, or nationwide basis

(1) In carrying out his functions relating to the discharge of dredged or fill material under this section, the Secretary may, after notice and opportunity for public hearing, issue general permits on a State, regional, or nationwide basis for any category of activities involving discharges of dredged or fill material if the Secretary determines that the activities in such category are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment. Any general permit issued under this subsection shall (A) be based on the guidelines described in subsection (b)(1) of this section, and (B) set forth the requirements and standards which shall apply to any activity authorized by such general permit.

(2) No general permit issued under this subsection shall be for a period of more than five years after the date of its issuance and such general permit may be revoked or modified by the Secretary if, after opportunity for public hearing, the Secretary determines that the activities authorized by such general permit have an adverse impact on the environment or such activities are more appropriately authorized by individual permits.

(f) Non-prohibited discharge of dredged or fill material

(1) Except as provided in paragraph (2) of this subsection, the discharge of dredged or fill material—

(A) from normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

(B) for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures;

(C) for the purpose of construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches;

(D) for the purpose of construction of temporary sedimentation basins on a construction site which does not include placement of fill material into the navigable waters;

(E) for the purpose of construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired, that the reach of the navigable waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

(F) resulting from any activity with respect to which a State has an approved program under section 1288(b)(4) of this title which meets the requirements of subparagraphs (B) and (C) of such section,

is not prohibited by or otherwise subject to regulation under this section or section 1311(a) or 1342 of this title (except for effluent standards or prohibitions under section 1317 of this title).

(2) Any discharge of dredged or fill material into the navigable waters incidental to any activity having as its purpose bringing an area of the navigable waters into a use to which it was not previously subject, where the flow or circulation of navigable waters may be impaired or the reach of such waters be reduced, shall be required to have a permit under this section.

(g) State administration

(1) The Governor of any State desiring to administer its own individual and general permit program for the discharge of dredged or fill material into the navigable waters (other than those waters which are presently used, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark, or mean higher high water mark on the west coast, including wetlands adjacent thereto) within its jurisdiction

may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program.

(2) Not later than the tenth day after the date of the receipt of the program and statement submitted by any State under paragraph (1) of this subsection, the Administrator shall provide copies of such program and statement to the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

(3) Not later than the ninetieth day after the date of the receipt by the Administrator of the program and statement submitted by any State, under paragraph (1) of this subsection, the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall submit any comments with respect to such program and statement to the Administrator in writing.

(h) Determination of State's authority to issue permits under State program; approval; notification; transfers to State program

(1) Not later than the one-hundred-twentieth day after the date of the receipt by the Administrator of a program and statement submitted by any State under paragraph (1) of this subsection, the Administrator shall determine, taking into account any comments submitted by the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, pursuant to subsection (g) of this section, whether such State has the following authority with respect to the issuance of permits pursuant to such program:

(A) To issue permits which—

(i) apply, and assure compliance with, any applicable requirements of this section, including, but not limited to, the guidelines established under subsection (b)(1) of this section, and sections 1317 and 1343 of this title;

(ii) are for fixed terms not exceeding five years; and

(iii) can be terminated or modified for cause including, but not limited to, the following:

(I) violation of any condition of the permit;

(II) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

(III) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(B) To issue permits which apply, and assure compliance with, all applicable requirements of section 1318 of this title, or to inspect, monitor, enter, and require reports to at least the same extent as required in section 1318 of this title.

(C) To assure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application.

(D) To assure that the Administrator receives notice of each application (including a copy thereof) for a permit.

(E) To assure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing.

(F) To assure that no permit will be issued if, in the judgment of the Secretary, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby.

(G) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement.

(H) To assure continued coordination with Federal and Federal-State water-related planning and review processes.

(2) If, with respect to a State program submitted under subsection (g)(1) of this section, the Administrator determines that such State—

(A) has the authority set forth in paragraph (1) of this subsection, the Administrator shall approve the program and so notify (i) such State and (ii) the Secretary, who upon subsequent notification from such State that it is administering such program, shall suspend the issuance of permits under subsections (a) and (e) of this section for activities with respect to which a permit may be issued pursuant to such State program; or

(B) does not have the authority set forth in paragraph (1) of this subsection, the Administrator shall so notify such State, which notification shall also describe the revisions or modifications necessary so that such State may resubmit such program for a determination by the Administrator under this subsection.

(3) If the Administrator fails to make a determination with respect to any program submitted by a State under subsection (g)(1) of this section within one-hundred-twenty days after the date of the receipt of such program, such program shall be deemed approved pursuant to paragraph (2)(A) of this subsection and the Administrator shall so notify such State and the Secretary who, upon subsequent notification from such State that it is administering such program, shall suspend the issuance of permits under subsection (a) and (e) of this section for

activities with respect to which a permit may be issued by such State.

(4) After the Secretary receives notification from the Administrator under paragraph (2) or (3) of this subsection that a State permit program has been approved, the Secretary shall transfer any applications for permits pending before the Secretary for activities with respect to which a permit may be issued pursuant to such State program to such State for appropriate action.

(5) Upon notification from a State with a permit program approved under this subsection that such State intends to administer and enforce the terms and conditions of a general permit issued by the Secretary under subsection (e) of this section with respect to activities in such State to which such general permit applies, the Secretary shall suspend the administration and enforcement of such general permit with respect to such activities.

(i) Withdrawal of approval

Whenever the Administrator determines after public hearing that a State is not administering a program approved under subsection (h)(2)(A) of this section, in accordance with this section, including, but not limited to, the guidelines established under subsection (b)(1) of this section, the Administrator shall so notify the State, and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days after the date of the receipt of such notification, the Administrator shall (1) withdraw approval of such program until the Administrator determines such corrective action has been taken, and (2) notify the Secretary that the Secretary shall resume the program for the issuance of permits under subsections (a) and (e) of this section for activities with respect to which the State was issuing permits and that such authority of the Secretary shall continue in effect until such time as the Administrator makes the determination described in clause (1) of this subsection and such State again has an approved program.

(j) Copies of applications for State permits and proposed general permits to be transmitted to Administrator

Each State which is administering a permit program pursuant to this section shall transmit to the Administrator (1) a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State, and (2) a copy of each proposed general permit which such State intends to issue. Not later than the tenth day after the date of the receipt of such permit application or such proposed general permit, the Administrator shall provide copies of such permit application or such proposed general permit to the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service. If the Administrator intends to provide written comments to such State with respect to such permit application or such proposed general permit, he shall so notify such State not later than the thirtieth day after the date of the receipt of such application or such proposed general permit and provide such written comments to such State, after consideration of any comments made in writing with respect to such application or such proposed general permit by the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, not later than the ninetieth day after the date of such receipt. If such State is so notified by the Administrator, it shall not issue the proposed permit until after the receipt of such comments from the Administrator, or after such ninetieth day, whichever first occurs. Such State shall not issue such proposed permit after such ninetieth day if it has received such written comments in which the Administrator objects (A) to the issuance of such proposed permit and such proposed permit is one that has been submitted to the Administrator pursuant to subsection (h)(1)(E) of this section, or (B) to the issuance of such proposed permit as being outside the requirements of this section, including, but not limited to, the guidelines developed under subsection (b)(1) of this section unless it modifies such proposed permit in accordance with such comments. Whenever the Administrator objects to the issuance of a permit under the preceding sentence such written objection shall contain a statement of the reasons for such objection and the conditions which such permit would include if it were issued by the Administrator. In any case where the Administrator objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing or, if no hearing is requested within 90 days after the date of such objection, the Secretary may issue the permit pursuant to subsection (a) or (e) of this section, as the case may be, for such source in accordance with the guidelines and requirements of this chapter.

(k) Waiver

In accordance with guidelines promulgated pursuant to subsection (i)(2) of section 1314 of this title, the Administrator is authorized to waive the requirements of subsection (j) of this section at the time of the approval of a program pursuant to subsection (h)(2)(A) of this section for any category (including any class, type, or size within such category) of discharge within the State submitting such program.

(l) Categories of discharges not subject to requirements

The Administrator shall promulgate regulations establishing categories of discharges which he determines shall not be subject to the requirements of subsection (j) of this section in any State with a program approved pursuant to subsection (h)(2)(A) of this section. The Administrator may distinguish among classes, types, and sizes within any category of discharges.

(m) Comments on permit applications or proposed general permits by Secretary of the Interior acting through Director of United States Fish and Wildlife Service

Not later than the ninetieth day after the date on which the Secretary notifies the Secre-

tary of the Interior, acting through the Director of the United States Fish and Wildlife Service that (1) an application for a permit under subsection (a) of this section has been received by the Secretary, or (2) the Secretary proposes to issue a general permit under subsection (e) of this section, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall submit any comments with respect to such application or such proposed general permit in writing to the Secretary.

(n) Enforcement authority not limited

Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 1319 of this title.

(o) Public availability of permits and permit applications

A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or portion thereof, shall further be available on request for the purpose of reproduction.

(p) Compliance

Compliance with a permit issued pursuant to this section, including any activity carried out pursuant to a general permit issued under this section, shall be deemed compliance, for purposes of sections 1319 and 1365 of this title, with sections 1311, 1317, and 1343 of this title.

(q) Minimization of duplication, needless paperwork, and delays in issuance; agreements

Not later than the one-hundred-eightieth day after December 27, 1977, the Secretary shall enter into agreements with the Administrator, the Secretaries of the Departments of Agriculture, Commerce, Interior, and Transportation, and the heads of other appropriate Federal agencies to minimize, to the maximum extent practicable, duplication, needless paperwork, and delays in the issuance of permits under this section. Such agreements shall be developed to assure that, to the maximum extent practicable, a decision with respect to an application for a permit under subsection (a) of this section will be made not later than the ninetieth day after the date the notice for such application is published under subsection (a) of this section.

(r) Federal projects specifically authorized by Congress

The discharge of dredged or fill material as part of the construction of a Federal project specifically authorized by Congress, whether prior to or on or after December 27, 1977, is not prohibited by or otherwise subject to regulation under this section, or a State program approved under this section, or section 1311(a) or 1342 of this title (except for effluent standards or prohibitions under section 1317 of this title), if information on the effects of such discharge, including consideration of the guidelines developed under subsection (b)(1) of this section, is included in an environmental impact statement for such project pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and such environmental impact statement has been submitted to Congress before the actual discharge of dredged or fill material in connection with the construction of such project and prior to either authorization of such project or an appropriation of funds for such construction.

(s) Violation of permits

(1) Whenever on the basis of any information available to him the Secretary finds that any person is in violation of any condition or limitation set forth in a permit issued by the Secretary under this section, the Secretary shall issue an order requiring such person to comply with such condition or limitation, or the Secretary shall bring a civil action in accordance with paragraph (3) of this subsection.

(2) A copy of any order issued under this subsection shall be sent immediately by the Secretary to the State in which the violation occurs and other affected States. Any order issued under this subsection shall be by personal service and shall state with reasonable specificity the nature of the violation, specify a time for compliance, not to exceed thirty days, which the Secretary determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection is issued to a corporation, a copy of such order shall be served on any appropriate corporate officers.

(3) The Secretary is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction for any violation for which he is authorized to issue a compliance order under paragraph (1) of this subsection. Any action under this paragraph may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such acton [1] shall be given immediately to the appropriate State.

(4)(A) Any person who willfully or negligently violates any condition or limitation in a permit issued by the Secretary under this section shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(B) For the purposes of this paragraph, the term "person" shall mean, in addition to the definition contained in section 1362(5) of this title, any responsible corporate officer.

(5) Any person who violates any condition or limitation in a permit issued by the Secretary under this section, and any person who violates any order issued by the Secretary under paragraph (1) of this subsection, shall be subject to a civil penalty not to exceed $10,000 per day of such violation.

(t) Navigable waters within State jurisdiction

Nothing in this section shall preclude or deny the right of any State or interstate agency to control the discharge of dredged or fill material

[1] So in original. Probably should be "action".

in any portion of the navigable waters within the jurisdiction of such State, including any activity of any Federal agency, and each such agency shall comply with such State or interstate requirements both substantive and procedural to control the discharge of dredged or fill material to the same extent that any person is subject to such requirements. This section shall not be construed as affecting or impairing the authority of the Secretary to maintain navigation.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 67(a), (b), 91 Stat. 1600.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (r), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217, § 67(a)(1), substituted "The Secretary" for "The Secretary of the Army, acting through the Chief of Engineers," and added provision that, not later than the fifteenth day after the date an applicant submits all the information required to complete an application for a permit under this subsection, the Secretary publish the notice required by this subsection.

Subsec. (b). Pub. L. 95-217, § 67(a)(2), substituted "the Secretary" for "the Secretary of the Army".

Subsec. (c). Pub. L. 95-217, § 67(a)(2), substituted "the Secretary" for "the Secretary of the Army".

Subsecs. (d) to (t). Pub. L. 95-217, § 67(b), added subsecs. (d) to (t).

AUTHORITY TO DELEGATE TO STATE OF WASHINGTON FUNCTIONS OF THE SECRETARY RELATING TO LAKE CHELAN, WASHINGTON

Section 76 of Pub. L. 95-217 provided that: "The Secretary of the Army, acting through the Chief of Engineers, is authorized to delegate to the State of Washington upon its request all or any part of those functions vested in such Secretary by section 404 of the Federal Water Pollution Control Act [this section] and by sections 9, 10, and 13 of the Act of March 3, 1899 [sections 401, 403, and 407 of this title], relating to Lake Chelan, Washington, if the Secretary determines (1) that such State has the authority, responsibility, and capability to carry out such functions, and (2) that such delegation is in the public interest. Such delegation shall be subject to such terms and conditions as the Secretary deems necessary, including, but not limited to, suspension and revocation for cause of such delegation."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1251, 1285, 1288, 1311, 1318, 1319, 1342 of this title.

§ 1345. Disposal or use of sewage sludge

(a) Permit

Notwithstanding any other provision of this chapter or of any other law, in any case where the disposal of sewage sludge resulting from the operation of a treatment works as defined in section 1292 of this title (including the removal of in-place sewage sludge from one location and its deposit at another location) would result in any pollutant from such sewage sludge entering the navigable waters, such disposal is prohibited except in accordance with a permit issued by the Administrator under section 1342 of this title.

(b) Issuance of permit; regulations

The Administrator shall issue regulations governing the issuance of permits for the disposal of sewage sludge subject to subsection (a) of this section and section 1342 of this title. Such regulations shall require the application to such disposal of each criterion, factor, procedure, and requirement applicable to a permit issued under section 1342 of this title.

(c) State permit program

Each State desiring to administer its own permit program for disposal of sewage sludge subject to subsection (a) of this section within its jurisdiction may do so in accordance with section 1342 of this title.

(d) Regulations providing guidelines

The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after December 27, 1977, and from time to time thereafter, regulations providing guidelines for the disposal of sludge and the utilization of sludge for various purposes. Such regulations shall—

(1) identify uses for sludge, including disposal;

(2) specify factors to be taken into account in determining the measures and practices applicable to each such use or disposal (including publication of information on costs);

(3) identify concentrations of pollutants which interfere with each such use or disposal.

The Administrator is authorized to revise any regulation issued under this subsection.

(e) Local determination; compliance with guidelines

The determination of the manner of disposal or use of sludge is a local determination except that it shall be unlawful for the owner or operator of any publicly owned treatment works to dispose of sludge from such works for any use for which guidelines have been established pursuant to subsection (d) of this section, except in accordance with such guidelines.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 54(d), 68, 91 Stat. 1591, 1606.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217, § 68(a), substituted "under section 1342 of this title" for "under this section".

Subsec. (b). Pub. L. 95-217, §§ 54(d)(1), 68(b), (c), substituted "sewage sludge subject to subsection (a) of this section and section 1342 of this title" for "sewage sludge subject to this section" and struck out ", as the Administrator determines necessary to carry out the objective of this chapter" following "permit issued under section 1342 of this title".

Subsec. (c). Pub. L. 95-217, §§ 54(d)(2), 68(d), substituted "disposal of sewage sludge subject to subsection (a) of this section within its jurisdiction may do so in accordance with section 1342 of this title" for "disposal of sewage sludge within its jurisdiction may do so if upon submission of such program the Administrator determines such program is adequate to carry out the objective of this chapter".

Subsecs. (d), (e). Pub. L. 95-217, § 54(d)(3), added subsecs. (d) and (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1317, 1319 of this title.

SUBCHAPTER V—GENERAL PROVISIONS

§ 1362. Definitions

Except as otherwise specifically provided, when used in this chapter:

[*See main edition for text of (1) to (13)*]

(14) The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

[*See main edition for text of (15) to (19)*]

(As amended Dec. 27, 1977, Pub. L. 95-217, § 33(b), 91 Stat. 1577.)

AMENDMENTS

1977—Par. (14). Pub. L. 95-217 added provision that the term "point source" does not include return flows from irrigated agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1319, 1344 of this title; title 26 section 169.

§ 1364. Emergencies

(a) Emergency powers

Notwithstanding any other provision of this chapter, the Administrator upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons or to the welfare of persons where such endangerment is to the livelihood of such persons, such as inability to market shellfish, may bring suit on behalf of the United States in the appropriate district court to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to such pollution or to take such other action as may be necessary.

(b) Emergency assistance; emergency fund; annual report; contingency plans; costs

(1) The Administrator is authorized to provide assistance in emergencies caused by the release into the environment of any pollutant or other contaminant including, but not limited to, those which present, or may reasonably be anticipated to present, an imminent and substantial danger to the public health or welfare.

(2) There is hereby established a contingency fund to carry out paragraph (1) of this subsection and there is authorized to be appropriated to such fund not to exceed $10,000,000. The amounts appropriated under this paragraph shall remain available until expended. There is authorized to be appropriated such sums as are necessary to maintain that portion of such fund available for emergency assistance at a $10,000,000 level.

(3) The Administrator shall submit a report annually to each House of Congress on his activities in carrying out this subsection.

(4) This subsection shall not be construed to relieve the Administrator of any requirement imposed on the Administrator by any other Federal law. Nothing contained in this subsection shall (A) affect any final action taken under such other Federal law, or (B) in any way affect the extent to which human health or the environment is to be protected under such other Federal law.

(5) The Administrator is authorized to provide emergency assistance under this subsection whenever the Administrator determines—

(A) such assistance is immediately required to prevent, limit, or mitigate the emergency;

(B) there is an immediate significant risk to the public health or welfare and the environment; and

(C) such assistance will not otherwise be provided on a timely basis.

(6) Emergency assistance provided under this subsection may include (A) measures to abate and remedy the emergency, (B) the performance of research on the effects of an emergency on public health, welfare, and the environment, and (C) providing officers and employees of the agency to administer, at the site of any emergency, the authority under this or other Federal law to minimize and mitigate the adverse effects of the emergency.

(7) The Administrator shall prepare and publish a contingency plan for responding to emergencies under this subsection. Such contingency plan shall include actions and responsibilities comparable to those specified in section 1321(c)(2) of this title.

(8) If emergency assistance is provided under this subsection in an emergency caused by the discharge of any pollutant subject to section 1321 of this title, the cost of such assistance shall, at the discretion of the Administrator, be a cost of removal for the purposes of subsections (f) and (g) of such section, and added to any liability which may be imposed under subsection (b)(2) of such section.

(9) The cost of any emergency assistance provided under this subsection in an emergency caused by the discharge of a pollutant in violation of any requirement of section 1311, 1316, 1317, 1342, or 1343 of this title, shall be recoverable from the owner or operator of the source of the discharge in an action brought under section 1319 of this title.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 69, 91 Stat. 1607.)

AMENDMENTS

1977—Pub. L. 95-217 designated existing provisions as subsec. (a) and added subsec. (b).

§ 1365. Citizen suits

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1342, 1344 of this title.

§ 1375. Reports to Congress

(a) Implementation of chapter objectives; status and progress of programs

[See main edition for text of (a)]

(b) Detailed estimates and comprehensive study on costs; State estimates, survey form

[See main edition for text of (b)]

(c) Status of combined sewer overflows in municipal treatment works operations

The Administrator shall submit to the Congress by October 1, 1978, a report on the status of combined sewer overflows in municipal treatment works operations. The report shall include (1) the status of any projects funded under this chapter to address combined sewer overflows (2) a listing by State of combined sewer overflow needs identified in the 1977 State priority listings, (3) an estimate for each applicable municipality of the number of years necessary, assuming an annual authorization and appropriation for the construction grants program of $5,000,000,000, to correct combined sewer overflow problems, (4) an analysis using representative municipalities faced with major combined sewer overflow needs, of the annual discharges of pollutants from overflows in comparison to treated effluent discharges, (5) an analysis of the technological alternatives available to municipalities to correct major combined sewer overflow problems, and (6) any recommendations of the Administrator for legislation to address the problem of combined sewer overflows, including whether a separate authorization and grant program should be established by the Congress to address combined sewer overflows.

(d) Status on use of municipal secondary effluent and sludge for agricultural and other purposes that utilize nutrient value of treated wastewater effluent

The Administrator shall submit to the Congress by October 1, 1978, a report on the status of the use of municipal secondary effluent and sludge for agricultural and other purposes that utilize the nutrient value of treated wastewater effluent. The report shall include (1) a summary of results of research and development programs, grants, and contracts carried out by the Environmental Protection Agency pursuant to sections 1254 and 1255 of this title, regarding alternatives to disposal, landfill, or incineration of secondary effluent of sludge, (2) an estimate of the amount of sludge generated by public treatment works and its disposition, including an estimate of annual energy costs to incinerate sludge, (3) an analysis of current technologies for the utilization, reprocessing, and other uses of sludge to utilize the nutrient value of sludge, (4) legal, institutional, public health, economic, and other impediments to the greater utilization of treated sludge, and (5) any recommendations of the Administrator for legislation to encourage or require the expanded utilization of sludge for agricultural and other purposes. In carrying out this subsection, the Administrator shall consult with, and use the services of the Tennessee Valley Authority and other departments, agencies, and instrumentalities of the United States, to the extent it is appropriate to do so.

(e) Legislative recommendations on program requiring coordination between water supply and wastewater control plans as condition for construction grants; public hearing

The Administrator, in cooperation with the States, including water pollution control agencies, and other water pollution control planning agencies, and water supply and water resources agencies of the States and the United States shall submit to Congress, within two years of December 27, 1977, a report with recommendations for legislation on a program to require coordination between water supply and wastewater control plans as a condition to grants for construction of treatment works under this chapter. No such report shall be submitted except after opportunity for public hearings on such proposed report.

(As amended Dec. 27, 1977, Pub. L. 95-217, §§ 70-72, 91 Stat. 1608, 1609.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-217, § 70, added subsec. (c).
Subsec. (d). Pub. L. 95-217, § 71, added subsec. (d).
Subsec. (e). Pub. L. 95-217, § 72, added subsec. (e).

§ 1376. Authorization of appropriations

There are authorized to be appropriated to carry out this chapter, other than sections 1254, 1255, 1256(a), 1257, 1258, 1262, 1263, 1264, 1265, 1286, 1287, 1288(f) and (h), 1289, 1314, 1321(c), (d), (i), (*l*), and (k), 1324, 1325, and 1327 of this title, $250,000,000 for the fiscal year ending June 30, 1973, $300,000,000 for the fiscal year ending June 30, 1974, $350,000,000 for the fiscal year ending June 30, 1975, $100,000,000 for the fiscal year ending September 30, 1977, $150,000,000 for the fiscal year ending September 30, 1978, $150,000,000 for the fiscal year ending September 30, 1979, and $150,000,000 for the fiscal year ending September 30, 1980.

(As amended Dec. 27, 1977, Pub. L. 95-217, § 4(g), 91 Stat. 1567.)

AMENDMENTS

1977—Pub. L. 95-217 substituted "$350,000,000 for the fiscal year ending June 30, 1975, $100,000,000 for the fiscal year ending September 30, 1977, $150,000,000 for the fiscal year ending September 30, 1978, $150,000,000 for the fiscal year ending September 30, 1979, and $150,000,000 for the fiscal year ending September 30, 1980" for "and $350,000,000 for the fiscal year ending June 30, 1975".

AUTHORIZATION APPROVAL FOR FUNDS APPROPRIATED BEFORE DECEMBER 27, 1977, FOR EXPENDITURES THROUGH FISCAL YEAR ENDING SEPTEMBER 30, 1977

Pub. L. 95-217, § 3, Dec. 27, 1977, 91 Stat. 1566, provided that: "Funds appropriated before the date of enactment of this Act [Dec. 27, 1977] for expenditure during the fiscal year ending June 30, 1976, the transition quarter ending September 30, 1976, and the fiscal year ending September 30, 1977, under authority of the Federal Water Pollution Control Act [this chapter], are hereby authorized for those purposes for which appropriated."

CHAPTER 27—OCEAN DUMPING

SUBCHAPTER I—REGULATION

Sec.
1412a. Cessation of sewage sludge ocean dumping; "sewage sludge" defined [New].

§ 1401. Congressional finding, policy, and declaration of purpose

ENVIRONMENTAL EFFECTS ABROAD OF MAJOR FEDERAL ACTIONS

For provisions relating to environmental effects abroad of major federal actions, see Ex. Ord. No. 12114, Jan. 4, 1979, 44 F.R. 1957, set out as a note under section 4321 of Title 42, the Public Health and Welfare.

FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS

For provisions relating to the responsibility of the head of each Executive agency for compliance with applicable pollution control standards, see Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

SUBCHAPTER I—REGULATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 42 sections 6922, 6923, 6928.

§ 1411. Prohibited acts

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1412, 1412a of this title.

§ 1412a. Cessation of sewage sludge ocean dumping; "sewage sludge" defined

(a) The Administrator of the Environmental Protection Agency (hereinafter referred to in this section as the "Administrator") shall end the dumping of sewage sludge into ocean waters, or into waters described in section 1411(b) of this title, as soon as possible after November 4, 1977, but in no case may the Administrator issue any permit, or any renewal thereof (under title I of the Marine Protection, Research, and Sanctuaries Act of 1972 [33 U.S.C. 1411 et seq.]) which authorizes any such dumping after December 31, 1981.

(b) For purposes of this section, the term "sewage sludge" means any solid, semisolid, or liquid waste generated by a municipal wastewater treatment plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, amenities, or the marine environment, ecological systems, or economic potentialities.

(Pub. L. 95-153, § 4, Nov. 4, 1977, 91 Stat. 1255.)

REFERENCES IN TEXT

The Marine Protection, Research, and Sanctuaries Act of 1972, referred to in subsec. (a), is Pub. L. 92-532, Oct. 23, 1972, 86 Stat. 1052, as amended. Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 is classified generally to subchapter I (§ 1411 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1401 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Marine Protection, Research, and Sanctuaries Act of 1972, Pub. L. 92-532, which comprises this chapter.

§ 1420. Authorization of appropriations

There are hereby authorized to be appropriated not to exceed $3,600,000 for fiscal year 1973, not to exceed $5,500,000 for each of the fiscal years 1974 and 1975, not to exceed $5,300,000 for fiscal year 1976, not to exceed $1,325,000 for the transition period (July 1 through September 30, 1976), not to exceed $4,800,000 for fiscal year 1977, and not to exceed $4,800,000 for fiscal year 1978, for the purposes and administration of this subchapter, and for succeeding fiscal years only such sums as the Congress may authorize by law.

(As amended Pub. L. 95-153, § 1, Nov. 4, 1977, 91 Stat. 1255.)

AMENDMENTS

1977—Pub. L. 95-153 added provision authorizing appropriations not to exceed $4,800,000 for fiscal year 1978.

SUBCHAPTER II—RESEARCH

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1704 of this title.

§ 1444. Authorization of appropriations

There are authorized to be appropriated for the first fiscal year after October 23, 1972, and for the next two fiscal years thereafter such sums as may be necessary to carry out this subchapter, but the sums appropriated for any such fiscal year may not exceed $6,000,000. There are authorized to be appropriated not to exceed $1,500,000 for the transition period (July 1 through September 30, 1976), not to exceed $5,600,000 for fiscal year 1977, and not to exceed $6,500,000 for fiscal year 1978.

(As amended Pub. L. 95-153, § 2, Nov. 4, 1977, 91 Stat. 1255.)

AMENDMENTS

1977—Pub. L. 95-153 added provision authorizing appropriations not to exceed $6,500,000 for fiscal year 1978.

CHAPTER 28—POLLUTION CASUALTIES ON THE HIGH SEAS: UNITED STATES INTERVENTION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1321 of this title.

§ 1471. Definitions

As used in this chapter—

(1) "a substance other than convention oil" means those oils, noxious substances, liquefied gases, and radioactive substances—

(A) enumerated in the protocol, or

(B) otherwise determined to be hazardous under section 1473(a) of this title;

(2) "convention" means the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, including annexes thereto;

(3) "convention oil" means crude oil, fuel oil, diesel oil, and lubricating oil;

(4) "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(5) "ship" means—

(A) a seagoing vessel of any type whatsoever, and

(B) any floating craft, except an installation or device engaged in the exploration and exploitation of the resources of the seabed and the ocean floor and the subsoil thereof;

(6) "protocol" means the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other Than Oil, 1973, including annexes thereto; and

(7) "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Marianas, and any other commonwealth, territory, or possession of the United States.

(As amended Pub. L. 95-302, § 1(1), June 26, 1978, 92 Stat. 344.)

AMENDMENTS

1978—Pub. L. 95-302 in cl. (1) substituted definition of the term "a substance other than convention oil" for definition of the term "ship", in cl. (2) substituted definition of the term "convention" for definition of the term "oil", in cl. (3) substituted definition of the term "convention oil" for definition of the term "convention", in cl. (5) substituted definition of the term "ship" for definition of the term "United States", and added cls. (6) and (7).

EFFECTIVE DATE OF 1978 AMENDMENT

For effective date of amendment by Pub. L. 95-302, see section 2 of Pub. L. 95-302, set out as an Effective Date of 1978 Amendment note under section 1487 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1321 of this title.

§ 1472. Grave and imminent danger from pollution casualties to coastline or related interests of United States; Federal nonliability for Federal preventive measures on the high seas

Whenever a ship collision, stranding, or other incident of navigation or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to the ship or her cargo creates, as determined by the Secretary, a grave and imminent danger to the coastline or related interests of the United States from pollution or threat of pollution of the sea by convention oil or of the sea or atmosphere by a substance other than convention oil which may reasonably be expected to result in major harmful consequences, the Secretary may, except as provided for in section 1479 of this title, without liability for any damage to the owners or operators of the ship, to her cargo or crew, to underwriters or other parties interested therein, take measures on the high seas, in accordance with the provisions of the convention, the protocol and this chapter, to prevent, mitigate, or eliminate that danger.

(As amended Pub. L. 95-302, § 1(2), June 26, 1978, 92 Stat. 344.)

AMENDMENTS

1978—Pub. L. 95-302 substituted "convention oil or of the sea or atmosphere by a substance other than convention oil" for "oil", and "convention, the protocol" for "Convention".

EFFECTIVE DATE OF 1978 AMENDMENT

For effective date of amendment by Pub. L. 95-302, see section 2 of Pub. L. 95-302, set out as an Effective Date of 1978 Amendment note under section 1487 of this title.

§ 1473. Consultations and determinations respecting creation of hazards to human health, etc.; criteria for determinations respecting grave and imminent dangers of major harmful consequences to United States coastline or related interests

(a) The Secretary, after consultation with the Administrator of the Environmental Protection Agency and the Secretary of Commerce, shall determine when a substance other than those enumerated in the protocol is liable to create a hazard to human health, to harm living resources, to damage amenities, or to interfere with other legitimate uses of the sea.

(b) In determining whether there is grave and imminent danger of major harmful consequences to the coastline or related interests of the United States, the Secretary shall consider the interests of the United States directly threatened or affected including but not limited to, human health, fish, shellfish, and other living marine resources, wildlife, coastal zone and estuarine activities, and public and private shorelines and beaches.

(As amended Pub. L. 95-302, § 1(3), June 26, 1978, 92 Stat. 344.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-302, § 1(3)(B), added subsec. (a).

Subsec. (b). Pub. L. 95-302, § 1(3)(A), designated existing provision as subsec. (b), and in subsec. (b) as so designated, inserted "human health," preceeding "fish".

EFFECTIVE DATE OF 1978 AMENDMENT

For effective date of amendment by Pub. L. 95-302, see section 2 of Pub. L. 95-302, set out as an Effective Date of 1978 Amendment note under section 1487 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471, 1479 of this title.

§ 1474. Federal intervention actions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1475, 1486 of this title; title 43 section 1811.

§ 1479. Federal liability for unreasonable damages; jurisdiction; burden of proof

[*See main edition for text of* (a) *and* (b)]

(c) With respect to intervention for a substance identified pursuant to section 1473(a) of

this title, the United States has the burden of establishing that, under the circumstances present at the time of the intervention, the substance could reasonably pose a grave and imminent danger analogous to that posed by a substance enumerated in the protocol.

(As amended Pub. L. 95-302, § 1(4), June 26, 1978, 92 Stat. 345.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-302 added subsec. (c).

EFFECTIVE DATE OF 1978 AMENDMENT

For effective date of amendment by Pub. L. 95-302, see section 2 of Pub. L. 95-302, set out as an Effective Date of 1978 Amendment note under section 1487 of this title.

§ 1482. Consultation for nomination and nomination of experts, negotiators, etc.; proposal of amendments to list of substances other than convention oil; Presidential acceptance of amendments

(a) Nomination of experts and proposal of amendments to list of substances

The Secretary, in consultation with the Secretary of State and the Administrator of the Environmental Protection Agency, may nominate individuals to the list of experts provided for in article III of the convention and article II of the protocol and may propose amendments to the list of substances other than convention oil in accordance with article III of the protocol.

(b) Consultations for designation or nomination of negotiators, etc., provided for by convention and protocol

The Secretary of State, in consultation with the Secretary, shall designate or nominate, as appropriate and necessary, the negotiators, conciliators, or arbitrators provided for by the convention and the protocol.

(c) Presidential acceptance of amendments to list of substances other than convention oil in accordance with protocol

The President may accept amendments to the list of substances other than convention oil in accordance with article III of the protocol.

(As amended Pub. L. 95-302, § 1(5), June 26, 1978, 92 Stat. 345.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-302, § 1(5)(A), added provisions relating to applicability of article II of the protocol and provisions for proposal of amendments to the list of substances other than convention oil.

Subsec. (b). Pub. L. 95-302, § 1(5)(B), substituted "protocol" for "annexes thereto".

Subsec. (c). Pub. L. 95-302, § 1(5)(C), added subsec. (c).

EFFECTIVE DATE OF 1978 AMENDMENT

For effective date of amendment by Pub. L. 95-302, see section 2 of Pub. L. 95-302, set out as an Effective Date of 1978 Amendment note under section 1487 of this title.

§ 1484. Interpretation and administration; other right, duty, privilege, or immunity and other remedy unaffected

This chapter shall be interpreted and administered in a manner consistent with the convention, the protocol, and other international law. Except as specifically provided, nothing in this chapter may be interpreted to prejudice any otherwise applicable right, duty, privilege, or immunity or deprive any country or person of any remedy otherwise applicable.

(As amended Pub. L. 95-302, § 1(6), June 26, 1978, 92 Stat. 345.)

AMENDMENTS

1978—Pub. L. 95-302 added ", the protocol," following "convention".

EFFECTIVE DATE OF 1978 AMENDMENT

For effective date of amendment by Pub. L. 95-302, see section 2 of Pub. L. 95-302, set out as an Effective Date of 1978 Amendment note under section 1487 of this title.

§ 1487. Effective date

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-302, § 2, June 26, 1978, 92 Stat. 345, provided that: "This Act [amending sections 1471 to 1473, 1479, 1482, and 1484 of this title] shall be effective upon the date of enactment [June 26, 1978], or upon the date the protocol becomes effective as to the United States, whichever is later." [The protocol was adopted by the United States on Sept. 7, 1978, to be effective as to the United States upon its adoption by 15 countries. As of December 31, 1978, the protocol was not adopted by the required number of countries.]

CHAPTER 29—DEEPWATER PORTS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1321 of this title.

§ 1501. Congressional declaration of policy

ENVIRONMENTAL EFFECTS ABROAD OF MAJOR FEDERAL ACTIONS

For provisions relating to environmental effects abroad of major federal actions, see Ex. Ord. No. 12114, Jan. 4, 1979, 44 F.R. 1957, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

§ 1502. Definitions

As used in this chapter, unless the context otherwise requires, the term—

[*See main edition for text of (1) to (9)*]

(10) "deepwater port" means any fixed or floating manmade structures other than a vessel, or any group of such structures, located beyond the territorial sea and off the coast of the United States and which are used or intended for use as a port or terminal for the loading or unloading and further handling of oil for transportation to any State, except as otherwise provided in section 1522 of this title. The term includes all associated components and equipment, including pipelines, pumping stations, service platforms, mooring buoys, and similar appurtenances to the extent they are located seaward of the high water mark. A deepwater port shall be considered a "new source" for purposes of the Clean Air Act, as amended [42 U.S.C. 7401 et seq.], and the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.];

[*See main edition for text of (11) to (19)*]

REFERENCES IN TEXT

The Clean Air Act, referred to in par. (10), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see short Title note set out under section 7401 of Title 42 and Tables.

CODIFICATION

Par. (10) is set out in this supplement to reflect the current citation to the Clean Air Act, which was reclassified to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare, on enactment of Pub. L. 95-95.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 1453; title 43 section 1811.

§ 1503. License for ownership, construction, and operation of deepwater port

[*See main edition for text of (a), (b)*]

(c) Conditions for issuance

The Secretary may issue a license in accordance with the provisions of this chapter if—

[*See main edition for text of (1) to (5)*]

(6) he has not been informed, within 45 days of the last public hearing on a proposed license for a designated application area, by the Administrator of the Environmental Protection Agency that the deepwater port will not conform with all applicable provisions of the Clean Air Act, as amended [42 U.S.C. 7401 et seq.], the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.], or the Marine Protection, Research and Sanctuaries Act, as amended [33 U.S.C. 1401 et seq.];

[*See main edition for text of (7) to (10); (d) to (h)*]

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (c)(6), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see short Title note set out under section 7401 of Title 42 and Tables.

CODIFICATION

Subsec. (c)(6) is set out in this supplement to reflect the current citation to the Clean Air Act, which was reclassified to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare, on enactment of Pub. L. 95-95.

§ 1507. Common carrier status; discrimination prohibition; enforcement, suspension, or termination proceedings

CODIFICATION

The Interstate Commerce Act, referred to in text, is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

§ 1512. Recordkeeping and inspection

CODIFICATION

The Interstate Commerce Act, referred to in subsec. (a), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended. Part I of the Act, which was classified to chapter 1 (§ 1 et seq.) of Title 49, Transportation, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

§ 1524. Authorization of appropriations

There is authorized to be appropriated for administration of this chapter, not to exceed $2,500,000 per fiscal year for the fiscal years ending June 30, 1975, June 30, 1976, September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980.

(As amended Pub. L. 95-36, June 1, 1977, 91 Stat. 177.)

AMENDMENTS

1977—Pub. L. 95-36 authorized appropriations of not to exceed $2,500,000 per fiscal year for fiscal years ending Sept. 30, 1977, Sept. 30, 1978, Sept. 30, 1979, and Sept. 30, 1980.

CHAPTER 30—INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA [NEW]

Sec.

1601. Definitions.
1602. International Regulations.
(a) Proclamation by President; effective date.
(b) Publication of proclamation in Federal Register.
(c) Amendment of International Regulations.
(d) Notification to Congress of proposed amendments; Congressional resolution of disapproval.
1603. Vessels subject to International Regulations.
1604. Vessels not subject to International Regulations; conflicts with laws and regulations of foreign states.
1605. Navy and Coast Guard vessels of special construction or purpose.
(a) Certification for alternative compliance.
(b) Closest possible compliance by vessels covered by certification for alternative compliance.
(c) Publication of certifications in Federal Register.
1606. Special rules for ships of war, vessels proceeding under convoy, and fishing vessels engaged in fishing as a fleet.
1607. Implementation by rules and regulations; authority to promulgate.
1608. Civil penalties.
(a) Liability of vessel operator for violations.
(b) Liability of vessel for violations; seizure of vessel.

Sec.

(c) Assessment of penalties; notice; opportunity for hearing; remission, mitigation, and compromise of penalty; action for collection.

§ 1601. Definitions

For the purposes of this chapter—

(1) "vessel" means every description of watercraft, including nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on water; and

(2) "high seas" means all parts of the sea that are not included in the territorial sea or in the internal waters of any nation.

(Pub. L. 95–75, § 2, July 27, 1977, 91 Stat. 308.)

References in Text

This chapter, referred to in opening par., in the original read "this Act", meaning Pub. L. 95–75, July 27, 1977, 91 Stat. 308, known as the "International Navigational Rules Act of 1977", which enacted this chapter, repealed sections 1051 to 1094 of this title, enacted provisions set out as notes under this section, and repealed provision set out as a note under section 1051 of this title.

Effective Date of International Regulations; Repeal of Former Regulations

Section 10 of Pub. L. 95–75 provided in part that Pub. L. 88–131, enacting sections 1051 to 1094 of this title and a provision set out as a note under section 1051 of this title which sections included the former International Regulations for Preventing Collisions at Sea, was repealed effective on the date on which the International Regulations [promulgated pursuant to this chapter] entered into force for the United States [July 15, 1977]. See Proclamation dated Jan. 19, 1977, set out as a note under section 1602 of this title.

References to Former Regulations

Section 10 of Pub. L. 95–75 provided in part that: "The reference in any other law to Public Law 88–131 [which enacted sections 1051 to 1094 of this title and enacted a provision set out as a note under section 1051 of this title], or to the regulations set forth in section 4 of that Act [sections 1061 to 1094 of this title], shall be considered a reference, respectively, to this Act [this chapter], or to the International Regulations proclaimed hereunder [set out as a note under section 1602 of this title]."

Short Title

Section 1 of Pub. L. 95–75 provided: "That this Act [enacting this chapter, repealing sections 1051 to 1094 of this title, enacting provisions set out as notes under this section, and repealing a provision set out as a note under section 1051 of this title] may be cited as the 'International Navigational Rules Act of 1977'."

§ 1602. International Regulations

(a) Proclamation by President; effective date

The President is authorized to proclaim the International Regulations for Preventing Collisions at Sea, 1972 (hereinafter referred to as the "International Regulations"). The effective date of the International Regulations for the United States shall be specified in the proclamation and shall be the date as near as possible to, but no earlier than, the date on which the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (hereinafter referred to as the "Convention"), signed at London, England, under date of October 20, 1972, enters into force for the United States. The International Regulations proclaimed shall consist of the rules and other annexes attached to the Convention.

(b) Publication of proclamation in Federal Register

The proclamation shall include the International Regulations and shall be published in the Federal Register. On the date specified in the proclamation, the International Regulations shall enter into force for the United States and shall have effect as if enacted by statute.

(c) Amendment of International Regulations

Subject to the provisions of subsection (d) of this section, the President is also authorized to proclaim any amendment to the International Regulations hereafter adopted in accordance with the provisions of article VI of the Convention, and to which the United States does not object. The effective date of the amendment shall be specified in the proclamation and shall be in accordance with the provisions of the said article VI. The proclamation shall include the adopted amendment and shall be published in the Federal Register. On the date specified in the proclamation, the amendment shall enter into force for the United States as a constituent part of the International Regulations, as amended, and shall have effect as if enacted by statute.

(d) Notification to Congress of proposed amendments; Congressional resolution of disapproval

(1) Upon receiving a proposed amendment to the International Regulations, communicated to the United States pursuant to clause 3 of article VI of the Convention, the President shall promptly notify the Congress of the proposed amendment. If, within sixty days after receipt of such notification by the Congress, or ten days prior to the date under clause 4 of article VI for registering an objection, whichever comes first, the Congress adopts a resolution of disapproval, such resolution shall be transmitted to the President and shall constitute an objection by the United States to the proposed amendment. If, upon receiving notification of the resolution of disapproval, the President has not already notified the Inter-Governmental Maritime Consultative Organization of an objection to the United States to the proposed amendment, he shall promptly do so.

(2) For the purposes of this subsection, "resolution of disapproval" means a concurrent resolution initiated by either House of the Congress, the matter after the resolving clause of which is to read as follows: "That the (the concurring) does not favor the proposed amendment to the International Regulations for Preventing Collisions at Sea, 1972, relating to , and forwarded to the Congress by the President on .", the first blank space therein to be filled with the name of the resolving House, the second blank space therein to be filled with the name of the concurring House, the third blank space therein to be filled with the subject matter of the proposed amendment, and the fourth blank space therein to be filled with the day, month, and year.

(3) Any proposed amendment transmitted to the Congress by the President and any resolu-

tion of disapproval pertaining thereto shall be referred, in the House of Representatives, to the Committee on Merchant Marine and Fisheries, and shall be referred, in the Senate, to the Committee on Commerce, Science, and Transportation.

(Pub. L. 95-75, § 3, July 27, 1977, 91 Stat. 308.)

PRIOR PROVISIONS

The original rules for the prevention of collisions on the water were contained in R.S. § 4233, which consisted of 26 rules, R.S. § 4412, which authorized the board of supervising inspectors to establish such regulations to be observed by all steam vessels in passing each other, as they should from time to time deem necessary for safety, and provided that copies of such regulations should be furnished to all of such vessels, to be kept posted up in conspicuous places in such vessels, and R.S. § 4413, which prescribed a penalty for neglecting or willfully refusing to observe the regulations established pursuant to said section 4412.

The rules prescribed by R.S. § 4233 were superseded as to navigation on the high seas and in all coast waters of the United States, except such as were otherwise provided for, by the adoption of the "Revised International Regulations" by act March 3, 1885, ch. 354, 23 Stat. 438, which rules were superseded by the passage and adoption of act Aug. 19, 1890, ch. 802, 26 Stat. 322, section 1 of which enacted a set of regulations for preventing collisions at sea to be followed by all public and private vessels of the United States upon the high seas and in all waters connected therewith, navigable by seagoing vessels.

Act Aug. 19, 1890, ch. 802, § 1, consisted of 31 articles. Section 2 of act Aug. 19, 1890, ch. 802, repealed all laws and parts of laws inconsistent with the regulations for preventing collisions at sea for the navigation of all public and private vessels of the United States upon the high seas, and in all waters connected therewith navigable by seagoing vessels, prescribed by section 1 of that act.

The rules prescribed by R.S. § 4233, were further superseded as to navigation on the Great Lakes and their connecting and tributary waters as far east as Montreal by act Feb. 8, 1895, ch. 64, 28 Stat. 645, section 1 of which enacted rules for preventing collisions to be followed in the navigation of all public and private vessels of the United States upon the Great Lakes and their connecting and tributary waters as far east as Montreal. Section 1 contained 28 articles. Section 2 of the act Feb. 8, 1895, ch. 64, prescribed a fine for violations of the act. Section 3 of the act Feb. 8, 1895, ch. 64, gave the Secretary of the Treasury authority to establish all necessary regulations not inconsistent with the act, necessary to carry the act into effect, and gave the Board of Supervising Inspectors of the United States authority to establish such regulations to be observed by all steam vessels in passing each other, not inconsistent with the act, as they should from time to time deem necessary, and provided that the regulations so adopted, when approved by the Secretary of the Treasury, should have the force of law. Section 4 of the act Feb. 8, 1895, ch. 64, repealed all laws or parts of laws, so far as applicable to the navigation of the Great Lakes and their connecting and tributary waters as far east as Montreal, inconsistent with the rules promulgated by the act.

The rules prescribed by R.S. § 4233, and by R.S. §§ 4412, 4414, and the regulations pursuant thereto, were required to be followed on the harbors, rivers, and inland waters of the United States, and the provisions of said sections were made special rules, duly made by local authority, relative to the navigation of harbors, rivers, and inland waters, as provided for by article 30 of the act Aug. 19, 1890, ch. 802, § 1, by act Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672. Section 2 of the act Feb. 19, 1895, ch. 102, authorized the Secretary of the Treasury to designate and define by the suitable bearing or range with light houses, light vessels, buoys, or coast objects, the lines dividing the high seas from rivers, harbors, and inland waters. Section 3 of the act Feb. 19, 1895, ch. 102, required collectors or other chief officers of the customs to require sail vessels to be furnished with proper signal lights, and prescribed a penalty to be assessed against vessels navigated without complying with the statutes of the United States, or the regulations lawfully made thereunder. Section 4 of the act Feb. 19, 1895, ch. 102, provided that the words "inland waters" should not be held to include the Great Lakes and their connecting and tributary waters as far east as Montreal, and provided that the act should not modify or affect the provisions of act Feb. 8, 1895, ch. 64, which was the act prescribing rules for preventing collisions to be followed in the navigation of all public and private vessels upon the Great Lakes and their connecting and tributary waters as far east as Montreal.

The rules prescribed by R.S. § 4233, were further superseded as to the navigation of all harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, by act June 7, 1897, ch. 4, 30 Stat. 96, section 1 of which enacted a set of regulations for preventing collisions, to be followed by all vessels navigating all harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries. Said section 1 consisted of 31 articles. Section 2 of the act June 7, 1897, ch. 4, authorized the supervising inspectors of steam-vessels and the Supervising Inspector-General to establish rules to be observed by steam vessels in passing each other and as to the lights to be carried by ferry-boats and by barges and canal-boats, when in tow of steam-vessels, not inconsistent with the provisions of the act, such rules, when approved by the Secretary of the Treasury, to be special rules duly made by local authority, as provided for by article 30 of the act Aug. 19, 1890, ch. 802, § 1 which article provided that nothing in the rules contained in that act should interfere with the operation of special rules, duly made by local authority, relative to the navigation of any harbor, river, or inland waters. Section 3 of the act June 7, 1897, ch. 4, prescribed a penalty for violations of the provisions of the act or the regulations established pursuant to section 2. Section 4 of the act June 7, 1897, ch. 4, also prescribed a penalty to be assessed against vessels navigated without compliance with the provisions of the act. Section 5 of the act June 7, 1897, ch. 4, repealed R.S. §§ 4233, 4412 (with the regulations made in pursuance thereof, except the rules and regulations for the government of pilots of steamers navigating the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, and except the rules for the Great Lakes and their connecting and tributary waters as far east as Montreal), § 4413, act March 3, 1893, ch. 202, 27 Stat. 557, which amended R.S. § 4233, act Feb. 19, 1895, ch. 102, §§ 1, 3, and act March 3, 1897, ch. 389, §§ 5, 12, 13, 29 Stat. 689, 690, and all amendments thereto insofar as the harbors, rivers, and inland waters of the United States (except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico, and their tributaries) were concerned.

This legislation resulted in the following situation: Navigation on the high seas was governed by act Aug. 19, 1890, ch. 802, with its amendatory and supplementary acts, which was superseded by act Oct. 11, 1951, ch. 495, formerly set forth in chapter 2 of this title; navigation on all harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying

into the Gulf of Mexico and their tributaries, is governed by act June 7, 1897, ch. 4, as amended, set forth in chapter 3 of this title; navigation on the Great Lakes and their connecting and tributary waters as far east as Montreal is governed by act Feb. 8, 1895, ch. 64, set forth in section 301 et seq. of this title; and navigation on the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries is governed by R.S. § 4233, as amended and supplemented, set forth in section 301 et seq. of this title.

See also Codification notes to sections 154, 241, and 301 of this title.

Regulations for Preventing Collisions at Sea, 1948, approved by the International Conference on Safety of Life at Sea, 1948, covering substantially the same subject matter included under these rules, were set out as sections 143 to 147d of this title.

Regulations for Preventing Collisions at Sea, 1960, approved by the International Conference on the Safety of Life at Sea, 1960, covering substantially the same subject matter included under these rules, were set out as sections 1051 to 1094 of this title.

INTERNATIONAL CONVENTION FOR SAFETY OF LIFE AT SEA, 1948

The convention, known as the International Convention for Safety of Life at Sea, was signed at London on June 10, 1948, and was ratified by the United States on April 20, 1949 (see Senate Report No. 838, Sept. 26, 1951, to accompany H.R. 5013, 82nd Cong.). The "International Regulations for Preventing Collisions at Sea, 1948", approved by the 1948 London conference, were adopted by section 6 of act Oct. 11, 1951, and were classified to section 144 et seq. of this title.

INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

The convention, known as the International Convention for the Safety of Life at Sea, was signed at London on June 17, 1960, and was ratified by the United States on May 26, 1965 (see Senate Report No. 477, Aug. 30, 1963, to accompany H.R. 6012, 88th Cong.). The "Regulations for Preventing Collisions at Sea, 1960", approved by the 1960 London conference, were adopted by section 4 of Pub. L. 88-131, Sept. 24, 1963, 77 Stat. 194, and were classified to section 1051 et seq. of this title.

INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

The Convention on the International Regulations for Preventing Collisions at Sea, 1972, was proclaimed by the President on Jan. 19, 1977. The President's proclamation, set out as a note below, provided that the Convention enter into force for the United States on July 15, 1977. The proclamation and the International Regulations were published in the Federal Register on Mar. 31, 1977, 42 F.R. 17112, with corrections to the International Regulations published on Apr. 7, 1977, 42 F.R. 18401 and on Apr. 21, 1977, 42 F.R. 20625. The International Regulations For Preventing Collisions At Sea, 1972, read as follows:

INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

PART A—GENERAL

Rule 1—Application

(a) These Rules shall apply to all vessels upon the high seas and in all waters connected therewith navigable by seagoing vessels.

(b) Nothing in these Rules shall interfere with the operation of special rules made by an appropriate authority for roadsteads, harbours, rivers, lakes or inland waterways connected with the high seas and navigable by seagoing vessels. Such special rules shall conform as closely as possible to these Rules.

(c) Nothing in these Rules shall interfere with the operation of any special rules made by the Government of any State with respect to additional station or signal lights or whistle signals for ships of war and vessels proceeding under convoy, or with respect to additional station or signal lights for fishing vessels engaged in fishing as a fleet. These additional station or signal lights or whistle signals shall, so far as possible, be such that they cannot be mistaken for any light or signal authorized elsewhere under these Rules.

(d) Traffic separation schemes may be adopted by the Organization for the purpose of these Rules.

(e) Whenever the Government concerned shall have determined that a vessel of special construction or purpose cannot comply fully with the provisions of any of these Rules with respect to the number, position, range or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signalling appliances, without interfering with the special function of the vessel, such vessel shall comply with such other provisions in regard to the number, position, range or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signalling appliances, as her Government shall have determined to be the closest possible compliance with these Rules in respect to that vessel.

Rule 2—Responsibility

(a) Nothing in these Rules shall exonerate any vessel, or the owner, master or crew thereof, from the consequences of any neglect to comply with these Rules or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

(b) In construing and complying with these Rules due regard shall be had to all dangers of navigation and collision and to any special circumstances, including the limitations of the vessels involved, which may make a departure from these Rules necessary to avoid immediate danger.

Rule 3—General Definitions

For the purpose of these Rules, except where the context otherwise requires:

(a) The word "vessel" includes every description of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water.

(b) The term "power-driven vessel" means any vessel propelled by machinery.

(c) The term "sailing vessel" means any vessel under sail provided that propelling machinery, if fitted, is not being used.

(d) The term "vessel engaged in fishing" means any vessel fishing with nets, lines, trawls or other fishing apparatus which restrict manoeuvrability, but does not include a vessel fishing with trolling lines or other fishing apparatus which do not restrict manoeuvrability.

(e) The word "seaplane" includes any aircraft designed to manoeuvre on the water.

(f) The term "vessel not under command" means a vessel which through some exceptional circumstance is unable to manoeuvre as required by these Rules and is therefore unable to keep out of the way of another vessel.

(g) The term "vessel restricted in her ability to manoeuvre" means a vessel which from the nature of her work is restricted in her ability to manoeuvre as required by these Rules and is therefore unable to keep out of the way of another vessel.

The following vessels shall be regarded as vessels restricted in their ability to manoeuvre:

(i) A vessel engaged in laying, servicing or picking up a navigation mark, submarine cable or pipeline;

(ii) A vessel engaged in dredging, surveying or underwater operations;

(iii) A vessel engaged in replenishment or transferring persons, provisions or cargo while underway;

(iv) A vessel engaged in the launching or recovery of aircraft;

(v) A vessel engaged in minesweeping operations;

(vi) A vessel engaged in a towing operation such as severely restricts the towing vessel and her tow in their ability to deviate from their course.

(h) The term "vessel constrained by her draught" means a power-driven vessel which because of her draught in relation to the available depth of water is severely restricted in her ability to deviate from the course she is following.

(i) The word "underway" means that a vessel is not at anchor, or made fast to the shore, or aground.

(j) The words "length" and "breadth" of a vessel mean her length overall and greatest breadth.

(k) Vessels shall be deemed to be in sight of one another only when one can be observed visually from the other.

(*l*) The term "restricted visibility" means any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms or any other similar causes.

PART B—STEERING AND SAILING RULES

SECTION I—CONDUCT OF VESSELS IN ANY CONDITION OF VISIBILITY

Rule 4—Application

Rules in this section apply in any condition of visibility.

Rule 5—Look-out

Every vessel shall at all times maintain a proper look-out by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.

Rule 6—Safe Speed

Every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions.

In determining a safe speed the following factors shall be among those taken into account:

(a) By all vessels:

(i) The state of visibility;

(ii) The traffic density including concentrations of fishing vessels or any other vessels;

(iii) the manoeuvrability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions;

(iv) At night the presence of background light such as from shore lights or from back scatter of her own lights;

(v) The state of wind, sea and current, and the proximity of navigational hazards;

(vi) The draught in relation to the available depth of water.

(b) Additionally, by vessels with operational radar:

(i) The characteristics, efficiency and limitations of the radar equipment;

(ii) Any constraints imposed by the radar range scale in use;

(iii) The effect on radar detection of the sea state, weather and other sources of interference;

(iv) The possibility that small vessels, ice and other floating objects may not be detected by radar at an adequate range;

(v) The number, location and movement of vessels detected by radar;

(vi) The more exact assessment of the visibility that may be possible when radar is used to determine the range of vessels or other objects in the vicinity.

Rule 7—Risk of Collision

(a) Every vessel shall use all available means appropriate to the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt such risk shall be deemed to exist.

(b) Proper use shall be made of radar equipment if fitted and operational, including long-range scanning to obtain early warning of risk of collision and radar plotting or equivalent systematic observation of detected objects.

(c) Assumptions shall not be made on the basis of scanty information, especially scanty radar information.

(d) In determining if risk of collision exists the following considerations shall be among those taken into account:

(i) Such risk shall be deemed to exist if the compass bearing of an approaching vessel does not appreciably change;

(ii) Such risk may sometimes exist even when an appreciable bearing change is evident, particularly when approaching a very large vessel or a tow or when approaching a vessel at close range.

Rule 8—Action to avoid collision

(a) Any action taken to avoid collision shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship.

(b) Any alteration of course and/or speed to avoid collision shall, if the circumstances of the case admit, be large enough to be readily apparent to another vessel observing visually or by radar; a succession of small alterations of course and/or speed should be avoided.

(c) If there is sufficient sea room, alteration of course alone may be the most effective action to avoid a close-quarters situation provided that it is made in good time, is substantial and does not result in another close-quarters situation.

(d) Action taken to avoid collision with another vessel shall be such as to result in passing at a safe distance. The effectiveness of the action shall be carefully checked until the other vessel is finally past and clear.

(e) If necessary to avoid collision or allow more time to assess the situation, a vessel shall slacken her speed or take all way off by stopping or reversing her means of propulsion.

Rule 9—Narrow channels

(a) A vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel or fairway which lies on her starboard side as is safe and practicable.

(b) A vessel of less than 20 metres in length or a sailing vessel shall not impede the passage of a vessel which can safely navigate only within a narrow channel or fairway.

(c) A vessel engaged in fishing shall not impede the passage of any other vessel navigating within a narrow channel or fairway.

(d) A vessel shall not cross a narrow channel or fairway if such crossing impedes the passage of a vessel which can safely navigate only within such channel or fairway. The latter vessel may use the sound signal prescribed in Rule 34(d) if in doubt as to the intention of the crossing vessel.

(e)(i) In a narrow channel or fairway when overtaking can take place only if the vessel to be overtaken has to take action to permit safe passing, the vessel intending to overtake shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c)(i). The vessel to be overtaken shall, if in agreement, sound the appropriate signal prescribed in Rule 34(c)(ii) and take steps to permit safe passing. If in doubt she may sound the signals prescribed in Rule 34(d).

(ii) This Rule does not relieve the overtaking vessel of her obligation under Rule 13.

(f) A vessel nearing a bend or an area of a narrow channel or fairway where other vessels may be obscured by an intervening obstruction shall navigate with particular alertness and caution and shall sound the appropriate signal prescribed in Rule 34(e).

(g) Any vessel shall, if the circumstances of the case admit, avoid anchoring in a narrow channel.

Rule 10—Traffic separation schemes

(a) This Rule applies to traffic separation schemes adopted by the Organization.

(b) A vessel using a traffic separation scheme shall:

(i) Proceed in the appropriate traffic lane in the general direction of traffic flow for that lane;

(ii) So far as practicable keep clear of a traffic separation line or separation zone;

(iii) Normally join or leave a traffic lane at the termination of the lane, but when joining or leaving from the side shall do so at as small an angle to the general direction of traffic flow as practicable.

(c) A vessel shall so far as practicable avoid crossing traffic lanes, but if obliged to do so shall cross as nearly as practicable at right angles to the general direction of traffic flow.

(d) Inshore traffic zones shall not normally be used by through traffic which can safely use the appropriate traffic lane within the adjacent traffic separation scheme.

(e) A vessel, other than a crossing vessel, shall not normally enter a separation zone or cross a separation line except:

(i) in cases of emergency to avoid immediate danger;

(ii) to engage in fishing within a separation zone.

(f) A vessel navigating in areas near the terminations of traffic separation schemes shall do so with particular caution.

(g) A vessel shall so far as practicable avoid anchoring in a traffic separation scheme or in areas near its terminations.

(h) A vessel not using a traffic separation scheme shall avoid it by as wide a margin as is practicable.

(i) A vessel engaged in fishing shall not impede the passage of any vessel following a traffic lane.

(j) A vessel of less than 20 metres in length or a sailing vessel shall not impede the safe passage of a power-driven vessel following a traffic lane.

SECTION II—CONDUCT OF VESSELS IN SIGHT OF ONE ANOTHER

Rule 11—Application

Rules in this Section apply to vessels in sight of one another.

Rule 12—Sailing vessels

(a) When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows:

(i) When each has the wind on a different side, the vessel which has the wind on the port side shall keep out of the way of the other;

(ii) When both have the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward;

(iii) If a vessel with the wind on the port side sees a vessel to windward and cannot determine with certainty whether the other vessel has the wind on the port or on the starboard side, she shall keep out of the way of the other.

(b) For the purposes of this Rule the windward side shall be deemed to be the side opposite to that on which the mainsail is carried or, in the case of a square-rigged vessel, the side opposite to that on which the largest fore-and-aft sail is carried.

Rule 13—Overtaking

(a) Notwithstanding anything contained in the Rules of this Section any vessel overtaking any other shall keep out of the way of the vessel being overtaken.

(b) A vessel shall be deemed to be overtaking when coming up with another vessel from a direction more than 22.5 degrees abaft her beam, that is, in such a position with reference to the vessel she is overtaking, that at night she would be able to see only the sternlight of that vessel but neither of her sidelights.

(c) When a vessel is in any doubt as to whether she is overtaking another, she shall assume that this is the case and act accordingly.

(d) Any subsequent alteration of the bearing between the two vessels shall not make the overtaking vessel a crossing vessel within the meaning of these Rules or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.

Rule 14—Head-on situation

(a) When two power-driven vessels are meeting on reciprocal or nearly reciprocal courses so as to involve risk of collision each shall alter her course to starboard so that each shall pass on the port side of the other.

(b) Such a situation shall be deemed to exist when a vessel sees the other ahead or nearly ahead and by night she could see the masthead lights of the other in a line or nearly in a line and/or both sidelights and by day she observes the corresponding aspect of the other vessel.

(c) When a vessel is in any doubt as to whether such a situation exists she shall assume that it does exist and act accordingly.

Rule 15—Crossing situation

When two power-driven vessels are crossing so as to involve risk of collision, the vessel which has the other on her own starboard side shall keep out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel.

Rule 16—Action by give-way vessel

Every vessel which is directed to keep out of the way of another vessel shall, so far as possible, take early and substantial action to keep well clear.

Rule 17—Action by stand-on vessel

(a)(i) Where one of two vessels is to keep out of the way the other shall keep her course and speed.

(ii) The latter vessel may however take action to avoid collision by her manoeuvre alone, as soon as it becomes apparent to her that the vessel required to keep out of the way is not taking appropriate action in compliance with these Rules.

(b) When, from any cause, the vessel required to keep her course and speed finds herself so close that collision cannot be avoided by the action of the give-way vessel alone, she shall take such action as will best aid to avoid collision.

(c) A power-driven vessel which takes action in a crossing situation in accordance with sub-paragraph (a)(ii) of this Rule to avoid collision with another power-driven vessel shall, if the circumstances of the case admit, not alter course to port for a vessel on her own port side.

(d) This Rule does not relieve the give-way vessel of her obligation to keep out of the way.

Rule 18—Responsibilities between vessels

Except where Rules 9, 10 and 13 otherwise require:

(a) A power-driven vessel underway shall keep out of the way of: (i) A vessel not under command;

(ii) A vessel restricted in her ability to manoeuvre;

(iii) A vessel engaged in fishing;

(iv) A sailing vessel.

(b) A sailing vessel underway shall keep out of the way of: (i) A vessel not under command;

(ii) A vessel restricted in her ability to manoeuvre;

(iii) A vessel engaged in fishing.

(c) A vessel engaged in fishing when underway shall, so far as possible, keep out of the way of:

(i) A vessel not under command;

(ii) A vessel restricted in her ability to manoeuvre.

(d)(i) Any vessel other than a vessel not under command or a vessel restricted in her ability to manoeuvre shall, if the circumstances of the case admit, avoid impeding the safe passage of a vessel constrained by her draught, exhibiting the signals in Rule 28.

(ii) A vessel constrained by her draught shall navigate with particular caution having full regard to her special condition.

(e) A seaplane on the water shall, in general, keep well clear of all vessels and avoid impeding their navigation. In circumstances, however, where risk of collision exists, she shall comply with the Rules of this Part.

SECTION III—CONDUCT OF VESSELS IN RESTRICTED VISIBILITY

Rule 19—Conduct of vessels in restricted visibility

(a) This Rule applies to vessels not in sight of one another when navigating in or near an area of restricted visibility.

(b) Every vessel shall proceed at a safe speed adapted to the prevailing circumstances and conditions of restricted visibility. A power-driven vessel shall have her engines ready for immediate manoeuvre.

(c) Every vessel shall have due regard to the prevailing circumstances and conditions of restricted visibility when complying with the Rules of Section I of this Part.

(d) A vessel which detects by radar alone the presence of another vessel shall determine if a close-quarters situation is developing and/or risk of collision exists. If so, she shall take avoiding action in ample time, provided that when such action consists of an alteration of course, so far as possible the following shall be avoided:

(i) An alteration of course to port for a vessel forward of the beam, other than for a vessel being overtaken;

(ii) An alteration of course toward a vessel abeam or abaft the beam.

(e) Except where it has been determined that a risk of collision does not exist, every vessel which hears apparently forward of her beam the fog signal of another vessel, or which cannot avoid a close-quarters situation with another vessel forward of her beam, shall reduce her speed to the minimum at which she can be kept on her course. She shall if necessary take all her way off and in any event navigate with extreme caution until danger of collision is over.

PART C—LIGHTS AND SHAPES

Rule 20—Application

(a) Rules in this Part shall be complied with in all weathers.

(b) The Rules concerning lights shall be complied with from sunset to sunrise, and during such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in these Rules or do not impair their visibility or distinctive character, or interfere with the keeping of a proper look-out.

(c) The lights prescribed by these Rules shall, if carried, also be exhibited from sunrise to sunset in restricted visibility and may be exhibited in all other circumstances when it is deemed necessary.

(d) The Rules concerning shapes shall be complied with by day.

(e) The lights and shapes specified in these Rules shall comply with the provisions of Annex I to these Regulations.

Rule 21—Definitions

(a) "Masthead light" means a white light placed over the fore and aft centreline of the vessel showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on either side of the vessel.

(b) "Sidelights" means a green light on the starboard side and a red light on the port side each showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on its respective side. In a vessel of less than 20 metres in length the sidelights may be combined in one lantern carried on the fore and aft centreline of the vessel.

(c) "Sternlight" means a white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel.

(d) "Towing light" means a yellow light having the same characteristics as the "sternlight" defined in paragraph (c) of this Rule.

(e) "All round light" means a light showing an unbroken light over an arc of the horizon of 360 degrees.

(f) "Flashing light" means a light flashing at regular intervals at a frequency of 120 flashes or more per minute.

Rule 22—Visibility of lights

The lights prescribed in these Rules shall have an intensity as specified in Section 8 of Annex I to these Regulations so as to be visible at the following minimum ranges:

(a) In vessels of 50 metres or more in length: A masthead light, 6 miles; A sidelight, 3 miles; A sternlight, 3 miles; A towing light, 3 miles; and A white, red, green or yellow all-round light, 3 miles.

(b) In vessels of 12 metres or more in length but less than 50 metres in length:

A masthead light, 5 miles; except that where the length of the vessel is less than 20 metres, 3 miles;

A sidelight, 2 miles;

A sternlight, 2 miles;

A towing light, 2 miles; and

A white, red, green or yellow all-round light, 2 miles.

(c) In vessels of less than 12 metres in length:

A masthead light, 2 miles;

A sidelight, 1 mile;

A sternlight, 2 miles;

A towing light, 2 miles; and

A white, red, green or yellow all-round light, 2 miles.

Rule 23—Power-driven vessels underway

(a) A power-driven vessel underway shall exhibit:

(i) A masthead light forward;

(ii) A second masthead light abaft of and higher than the forward one; except that a vessel of less than 50 metres in length shall not be obliged to exhibit such light but may do so;

(iii) Sidelights; and

(iv) A sternlight.

(b) An air-cushion vessel when operating in the non-displacement mode shall, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit an all-round flashing yellow light.

(c) A power-driven vessel of less than 7 metres in length and whose maximum speed does not exceed 7 knots may, in lieu of the lights prescribed in paragraph (a) of this Rule, exhibit an all-round white light. Such vessel shall, if practicable, also exhibit sidelights.

Rule 24—Towing and pushing

(a) A power-driven vessel when towing shall exhibit:

(i) Instead of the light prescribed in Rule 23(a)(i), two masthead lights forward in a vertical line. When the length of the tow measuring from the stern of the towing vessel to the after end of the tow exceeds 200 metres, three such lights in a vertical line;

(ii) Sidelights;

(iii) A sternlight;

(iv) A towing light in a vertical line above the sternlight; and

(v) When the length of the tow exceeds 200 metres, a diamond shape where it can best be seen.

(b) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and exhibit the lights prescribed in Rule 23.

(c) A power-driven vessel when pushing ahead or towing alongside, except in the case of a composite unit, shall exhibit:

(i) Instead of the light prescribed in Rule 23(a)(i), two masthead lights forward in a vertical line;

(ii) Sidelights; and
(iii) A sternlight.
(d) A power-driven vessel to which paragraphs (a) and (c) of this Rule apply shall also comply with Rule 23(a)(ii).
(e) A vessel or object being towed shall exhibit: (i) Sidelights;
(ii) A sternlight;
(iii) When the length of the tow exceeds 200 metres, a diamond shape where it can best be seen.
(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel, (i) a vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end, sidelights; (ii) A vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights.
(g) Where from any sufficient cause it is impracticable for a vessel or object being towed to exhibit the lights prescribed in paragraph (e) of this Rule, all possible measures shall be taken to light the vessel or object towed or at least to indicate the presence of the unlighted vessel or object.

Rule 25—Sailing Vessels Underway and Vessels under Oars

(a) A sailing vessel underway shall exhibit: (i) Sidelights;
(ii) A sternlight.
(b) In a sailing vessel of less than 12 metres in length the lights prescribed in paragraph (a) of this Rule may be combined in one lantern carried at or near the top of the mast where it can best be seen.
(c) A sailing vessel underway may, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower green, but these lights shall not be exhibited in conjunction with the combined lantern permitted by paragraph (b) of this Rule.
(d)(i) A sailing vessel of less than 7 metres in length shall, if practicable, exhibit the lights prescribed in paragraph (a) or (b) of this Rule, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.
(ii) A vessel under oars may exhibit the lights prescribed in this Rule for sailing vessels, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.
(e) A vessel proceeding under sail when also being propelled by machinery shall exhibit forward where it can best be seen a conical shape, apex downwards.

Rule 26—Fishing vessels

(a) A vessel engaged in fishing, whether underway or at anchor, shall exhibit only the lights and shapes prescribed in this Rule.
(b) A vessel when engaged in trawling, by which is meant the dragging through the water of a dredge net or other apparatus used as a fishing appliance, shall exhibit:
(i) two all-round lights in a vertical line, the upper being green and the lower white, or a shape consisting of two cones with their apexes together in a vertical line one above the other; a vessel of less than 20 metres in length may instead of this shape exhibit a basket;
(ii) A masthead light abaft of and higher than the all-round green light; a vessel of less than 50 metres in length shall not be obliged to exhibit such a light but may do so;
(iii) When making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.
(c) A vessel engaged in fishing, other than trawling, shall exhibit: (i) Two all-round lights in a vertical line, the upper being red and the lower white, or a shape consisting of two cones with apexes together in a vertical line one above the other; a vessel of less than 20 metres in length may instead of this shape exhibit a basket;
(ii) When there is outlying gear extending more than 150 metres horizontally from the vessel, an all-round white light or a cone apex upwards in the direction of the gear;
(iii) When making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.
(d) A vessel engaged in fishing in close proximity to other vessels engaged in fishing may exhibit the additional signals described in Annex II to these Regulations.
(e) A vessel when not engaged in fishing shall not exhibit the lights or shapes prescribed in this Rule, but only those prescribed for a vessel of her length.

Rule 27—Vessels not under command or restricted in their ability to manoeuvre

(a) A vessel not under command shall exhibit: (i) Two all-round red lights in a vertical line where they can best be seen;
(ii) Two balls or similar shapes in a vertical line where they can best be seen;
(iii) When making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.
(b) A vessel restricted in her ability to manoeuvre, except a vessel engaged in mine-sweeping operations, shall exhibit: (i) Three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;
(ii) Three shapes in a vertical line where they can best be seen. The highest and lowest of these shapes shall be balls and the middle one a diamond;
(iii) When making way through the water, masthead lights, sidelights and a sternlight, in addition to the lights prescribed in subparagraph (i);
(iv) When at anchor, in addition to the lights or shapes prescribed in sub-paragraphs (i) and (ii), the light, lights or shape prescribed in Rule 30.
(c) A vessel engaged in a towing operation such as renders her unable to deviate from her course shall, in addition to the lights or shapes prescribed in subparagraph (b)(i) and (ii) of this Rule, exhibit the lights or shape prescribed in Rule 24(a).
(d) A vessel engaged in dredging or underwater operations, when restricted in her ability to manoeuvre, shall exhibit the lights and shapes prescribed in paragraph (b) of this Rule and shall in addition, when an obstruction exists, exhibit: (i) Two all-round red lights or two balls in a vertical line to indicate the side on which the obstruction exists;
(ii) Two all-round green lights or two diamonds in a vertical line to indicate the side on which another vessel may pass;
(iii) When making way through the water, in addition to the lights prescribed in this paragraph, masthead lights, sidelights and a sternlight;
(iv) A vessel to which this paragraph applies when at anchor shall exhibit the lights or shapes prescribed in sub-paragraphs (i) and (ii) instead of the lights or shape prescribed in Rule 30.
(e) Whenever the size of a vessel engaged in diving operations makes it impracticable to exhibit the shapes prescribed in paragraph (d) of this Rule, a rigid replica of the International Code flag "A" not less than 1 metre in height shall be exhibited. Measures shall be taken to ensure all-round visibility.
(f) A vessel engaged in minesweeping operations shall, in addition to the lights prescribed for a power-driven vessel in Rule 23, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited at or near the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach closer than 1,000 metres astern or 500 metres on either side of the minesweeper.

(g) Vessels of less than 7 metres in length shall not be required to exhibit the lights prescribed in this Rule.

(h) The signals prescribed in this Rule are not signals of vessels in distress and requiring assistance. Such signals are contained in Annex IV to these Regulations.

Rule 28—Vessels constrained by their draught

A vessel constrained by her draught may, in addition to the lights prescribed for power-driven vessels in Rule 23, exhibit where they can best be seen three all-round red lights in a vertical line, or a cylinder.

Rule 29—Pilot vessels

(a) A vessel engaged on pilotage duty shall exhibit:
(i) At or near the masthead, two all-round lights in a vertical line, the upper being white and the lower red;
(ii) when underway, in addition, sidelights and a sternlight;
(iii) when at anchor, in addition to the lights prescribed in sub-paragraph (i), the anchor light, lights or shape.

(b) A pilot vessel when not engaged on pilotage duty shall exhibit the lights or shapes prescribed for a similar vessel of her length.

Rule 30—Anchored vessels and vessels aground

(a) A vessel at anchor shall exhibit where it can best be seen: (i) In the fore part, an all-round white light or one ball;
(ii) At or near the stern and at a lower level than the light prescribed in sub-paragraph (i), an all-round white light.

(b) A vessel of less than 50 metres in length may exhibit an all-round white light where it can best be seen instead of the lights prescribed in paragraph (a) of this Rule.

(c) A vessel at anchor may, and a vessel of 100 metres and more in length shall, also use the available working or equivalent lights to illuminate her decks.

(d) A vessel aground shall exhibit the lights prescribed in paragraph (a) or (b) of this Rule and in addition, where they can best be seen: (i) Two all-round red lights in a vertical line;
(ii) Three balls in a vertical line.

(e) A vessel of less than 7 metres in length, when at anchor or aground, not in or near a narrow channel, fairway or anchorage, or where other vessels normally navigate, shall not be required to exhibit the lights or shapes prescribed in paragraphs (a), (b) or (d) of this Rule.

Rule 31—Seaplanes

Where it is impracticable for a seaplane to exhibit lights and shapes of the characteristics or in the positions prescribed in the Rules of this Part she shall exhibit lights and shapes as closely similar in characteristics and position as is possible.

PART D—SOUND AND LIGHT SIGNALS

Rule 32—Definitions

(a) The word "whistle" means any sound signalling appliance capable of producing the prescribed blasts and which complies with the specifications in Annex III to these Regulations.

(b) The term "short blast" means a blast of about one second's duration.

(c) The term "prolonged blast" means a blast of from four to six seconds' duration.

Rule 33—Equipment for sound signals

(a) A vessel of 12 metres or more in length shall be provided with a whistle and a bell and a vessel of 100 metres or more in length shall, in addition be provided with a gong, the tone and sound of which cannot be confused with that of the bell. The whistle, bell and gong shall comply with the specifications in Annex III to these Regulations. The bell or gong or both may be replaced by other equipment having the same respective sound characteristics, provided that manual sounding of the required signals shall always be possible.

(b) A vessel of less than 12 metres in length shall not be obliged to carry the sound signalling appliances prescribed in paragraph (a) of this Rule but if she does not, she shall be provided with some other means of making an efficient sound signal.

Rule 34—Manoeuvring and warning signals

(a) When vessels are in sight of one another, a power-driven vessel underway, when manoeuvring as authorized or required by these Rules, shall indicate that manoeuvre by the following signals on her whistle:

One short blast to mean "I am altering my course to starboard";

Two short blasts to mean "I am altering my course to port";

Three short blasts to mean "I am operating astern propulsion".

(b) Any vessel may supplement the whistle signals prescribed in paragraph (a) of this Rule by light signals, repeated as appropriate, whilst the manoeuvre is being carried out:

(i) These light signals shall have the following significance:

One flash to mean "I am altering my course to starboard";

Two flashes to mean "I am altering my course to port";

Three flashes to mean "I am operating astern propulsion";

(ii) The duration of each flash shall be about one second, the interval between flashes shall be about one second, and the interval between successive signals shall be not less than ten seconds;

(iii) The light used for this signal shall, if fitted, be an all-round white light, visible at a minimum range of 5 miles, and shall comply with the provisions of Annex I.

(c) When in sight of one another in a narrow channel or fairway:

(i) A vessel intending to overtake another shall in compliance with Rule 9(e)(i) indicate her intention by the following signals on her whistle:

Two prolonged blasts followed by one short blast to mean "I intend to overtake you on your starboard side";

Two prolonged blasts followed by two short blasts to mean "I intend to overtake you on your port side".

(ii) The vessel about to be overtaken when acting in accordance with Rule 9(e)(i) shall indicate her agreement by the following signal on her whistle:

One prolonged, one short, one prolonged and one short blast, in that order.

(d) When vessels in sight of one another are approaching each other and from any cause either vessel fails to understand the intentions or actions of the other, or is in doubt whether sufficient action is being taken by the other to avoid collision, the vessel in doubt shall immediately indicate such doubt by giving at least five short and rapid blasts on the whistle. Such signal may be supplemented by a light signal of at least five short and rapid flashes.

(e) A vessel nearing a bend or an area of a channel or fairway where other vessels may be obscured by an intervening obstruction shall sound one prolonged blast. Such signal shall be answered with a prolonged blast by any approaching vessel that may be within hearing around the bend or behind the intervening obstruction.

(f) If whistles are fitted on a vessel at a distance apart of more than 100 metres, one whistle only shall be used for giving manoeuvring and warning signals.

Rule 35—Sound signals in restricted visability

In or near an area of restricted visability, whether by day or night, the signals prescribed in this Rule shall be used as follows:

(a) A power-driven vessel making way through the water shall sound at intervals of not more than 2 minutes one prolonged blast.

(b) A power-driven vessel underway but stopped and making no way through the water shall sound at intervals of not more than 2 minutes two prolonged blasts in succession with an interval of about 2 seconds between them.

(c) A vessel not under command, a vessel restricted in her ability to manoeuvre, a vessel constrained by her draught, a sailing vessel, a vessel engaged in fishing and a vessel engaged in towing or pushing another vessel shall, instead of the signals prescribed in paragraphs (a) or (b) of this Rule, sound at intervals of not more than 2 minutes three blasts in succession, namely one prolonged followed by two short blasts.

(d) A vessel towed or if more than one vessel is towed the last vessel of the tow, if manned, shall at intervals of not more than 2 minutes sound four blasts in succession, namely one prolonged followed by three short blasts. When practicable, this signal shall be made immediately after the signal made by the towing vessel.

(e) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and shall give the signals prescribed in paragraphs (a) or (b) of this Rule.

(f) A vessel at anchor shall at intervals of not more than one minute ring the bell rapidly for about 5 seconds. In a vessel of 100 metres or more in length the bell shall be sounded in the forepart of the vessel and immediately after the ringing of the bell the gong shall be sounded rapidly for about 5 seconds in the after part of the vessel. A vessel at anchor may in addition sound three blasts in succession, namely one short, one prolonged and one short blast, to give warning of her position and of the possibility of collision to an approaching vessel.

(g) A vessel aground shall give the bell signal and if required the gong signal prescribed in paragraph (f) of this Rule and shall, in addition, give three separate and distinct strokes on the bell immediately before and after the rapid ringing of the bell. A vessel aground may in addition sound an appropriate whistle signal.

(h) A vessel of less than 12 metres in length shall not be obliged to give the above-mentioned signals but, if she does not, shall make some other efficient sound signal at intervals of not more than 2 minutes.

(i) A pilot vessel when engaged on pilotage duty may in addition to the signals prescribed in paragraphs (a), (b) or (f) of this Rule sound an identity signal consisting of four short blasts.

Rule 36—Signals to attract attention

If necessary to attract the attention of another vessel any vessel may make light or sound signals that cannot be mistaken for any signal authorized elsewhere in these Rules, or may direct the beam of her searchlight in the direction of the danger, in such a way as not to embarrass any vessel.

Rule 37—Distress signals

When a vessel is in distress and requires assistance she shall use or exhibit the signals prescribed in Annex IV to these Regulations.

PART E—EXEMPTIONS

Rule 38—Exemptions

Any vessel (or class of vessels) provided that she complies with the requirements of the International Regulations for Preventing Collisions at Sea, 1960, the keel of which is laid or which is at a corresponding stage of construction before the entry into force of these Regulations may be exempted from compliance therewith as follows:

(a) The installation of lights with ranges prescribed in Rule 22, until four years after the date of entry into force of these Regulations.

(b) The installation of lights with colour specifications as prescribed in Section 7 of Annex I to these Regulations, until four years after the date of entry into force of these Regulations.

(c) The repositioning of lights as a result of conversion from Imperial to metric units and rounding off measurement figures, permanent exemption.

(d) (i) The repositioning of masthead lights on vessels of less than 150 metres in length, resulting from the prescriptions of Section 3(a) of Annex I, permanent exemption.

(ii) The repositioning of masthead lights on vessels of 150 metres or more in length, resulting from the prescriptions of Section 3(a) of Annex I to these Regulations, until nine years after the date of entry into force of these Regulations.

(e) The repositioning of masthead lights resulting from the prescriptions of Section 2(b) of Annex I, until nine years after the date of entry into force of these Regulations.

(f) The repositioning of sidelights resulting from the prescriptions of Sections 2(g) and 3(b) of Annex I, until nine years after the date of entry into force of these Regulations.

(g) The requirements for sound signal appliances prescribed in Annex III, until nine years after the date of entry into force of these Regulations.

ANNEX I

POSITIONING AND TECHNICAL DETAILS OF LIGHTS AND SHAPES

1. *Definition.* The term "height above the hull" means height above the uppermost continuous deck.

2. *Vertical positioning and spacing of lights.* (a) On a power-driven vessel of 20 metres or more in length the masthead lights shall be placed as follows:

(i) the forward masthead light, or if only one masthead light is carried, then that light, at a height above the hull of not less than 6 metres, and, if the breadth of the vessel exceeds 6 metres, then at a height above the hull not less than such breadth, so however that the light need not be placed at a greater height above the hull than 12 metres;

(ii) when two masthead lights are carried the after one shall be at least 4.5 metres vertically higher than the forward one.

(b) The vertical separation of masthead lights of power-driven vessels shall be such that in all normal conditions of trim the after light will be seen over and separate from the forward light at a distance of 1000 metres from the stem when viewed from sea level.

(c) The masthead light of a power-driven vessel of 12 metres but less than 20 metres in length shall be placed at a height above the gunwale of not less than 2.5 metres.

(d) A power-driven vessel of less than 12 metres in length may carry the uppermost light at a height of less than 2.5 metres above the gunwale. When however a masthead light is carried in addition to sidelights and a sternlight, then such masthead light shall be carried at least 1 metre higher than the sidelights.

(e) One of the two or three masthead lights prescribed for a power-driven vessel when engaged in towing or pushing another vessel shall be placed in the same position as the forward masthead light of a power-driven vessel.

(f) In all circumstances the masthead light or lights shall be so placed as to be above and clear of all other lights and obstructions.

(g) The sidelights of a power-driven vessel shall be placed at a height above the hull not greater than three quarters of that of the forward masthead light. They shall not be so low as to be interfered with by deck lights.

(h) The sidelights, if in a combined lantern and carried on a power-driven vessel of less than 20 metres in length, shall be placed not less than 1 metre below the masthead light.

(i) When the Rules prescribe two or three lights to be carried in a vertical line, they shall be spaced as follows:

(i) On a vessel of 20 metres in length or more such lights shall be spaced not less than 2 metres apart, and the lowest of these lights shall, except where a towing light is required, not be less than 4 metres above the hull;

(ii) On a vessel of less than 20 metres in length such lights shall be spaced not less than 1 metre apart and the lowest of these lights shall, except where a towing light is required, not be less than 2 metres above the gunwale;

(iii) When three lights are carried they shall be equally spaced.

(j) The lower of the two all-round lights prescribed for a fishing vessel when engaged in fishing shall be at a height above the sidelights not less than twice the distance between the two vertical lights.

(k) The forward anchor light, when two are carried, shall not be less than 4.5 metres above the after one. On a vessel of 50 metres or more in length this forward anchor light shall not be less than 6 metres above the hull.

3. *Horizontal positioning and spacing of lights.* (a) When two masthead lights are prescribed for a power-driven vessel, the horizontal distance between them shall not be less than one half of the length of the vessel but need not be more than 100 metres. The forward light shall be placed not more than one quarter of the length of the vessel from the stem.

(b) On a vessel of 20 metres or more in length the sidelights shall not be placed in front of the forward masthead lights. They shall be placed at or near the side of the vessel.

4. *Details of location of direction-indicating lights for fishing vessels, dredgers and vessels engaged in underwater operations.* (a) The light indicating the direction of the outlying gear from a vessel engaged in fishing as prescribed in Rule 26(c)(ii) shall be placed at a horizontal distance of not less than 2 metres and not more than 6 metres away from the two all-round red and white lights. This light shall be placed not higher than the all-round white light prescribed in Rule 26(c)(i) and not lower than the sidelights.

(b) The lights and shapes on a vessel engaged in dredging or underwater operations to indicate the obstructed side and/or the side on which it is safe to pass, as prescribed in Rule 27(d)(i) and (ii), shall be placed at the maximum practical horizontal distance, but in no case less than 2 metres, from the lights or shapes prescribed in Rule 27(b)(i) and (ii). In no case shall the upper of these lights or shapes be at a greater height than the lower of the three lights or shapes prescribed in Rule 27(b)(i) and (ii).

5. *Screens for sidelights.* The sidelights shall be fitted with inboard screens painted matt black, and meeting the requirements of Section 9 of this Annex. With a combined lantern, using a single vertical filament and a very narrow division between the green and red sections, external screens need not be fitted.

6. *Shapes.* (a) Shapes shall be black and of the following sizes:

(i) A ball shall have a diameter of not less than 0.6 metre;

(ii) A cone shall have a base diameter of not less than 0.6 metre and a height equal to its diameter;

(iii) A cylinder shall have a diameter of at least 0.6 metre and a height of twice its diameter;

(iv) A diamond shape shall consist of two cones as defined in (ii) above having a common base.

(b) The vertical distance between shapes shall be at least 1.5 metre.

(c) In a vessel of less than 20 metres in length shapes of lesser dimensions but commensurate with the size of the vessel may be used and the distance apart may be correspondingly reduced.

7. *Colour specification of lights.* The chromaticity of all navigation lights shall conform to the following standards, which lie within the boundaries of the area of the diagram specified for each colour by the International Commission on Illumination (CIE).

The boundaries of the area for each colour are given by indicating the corner co-ordinates, which are as follows:

(i) *White:*

x=0.525, 0.525, 0.452, 0.310, 0.310, 0.443.

y=0.382, 0.440, 0.440, 0.348, 0.283, 0.382.

(ii) *Green:*

x=0.028, 0.009, 0.300, 0.203.

y=0.385, 0.723, 0.511, 0.356.

(iii) *Red:*

x=0.680, 0.660, 0.735, 0.721.

y=0.320, 0.320, 0.265, 0.259.

(iv) *Yellow:*

x=0.612, 0.618, 0.575, 0.575.

y=0.382, 0.382, 0.425, 0.406.

8. *Intensity of lights.* (a) The minimum luminous intensity of lights shall be calculated by using the formula:

$$I=3.43\times10^{6}\times T\times D^{2}\times K^{-D}$$

where I is luminous intensity in candelas under service conditions,

T is threshold factor 2×10^{-7} lux, D is range of visibility (luminous range) of the light in nautical miles, K is atmospheric transmissivity.

For prescribed lights the value of K shall be 0.8, corresponding to a meteorological visibility of approximately 13 nautical miles.

(b) A selection of figures derived from the formula is given in the following table:

Range of visibility (luminous range) of light in nautical miles, D:	*Luminous intensity of light in candelas for K=0.8, I*
1	0.9
2	4.3
3	13
4	27
5	52
6	94

NOTE.—The maximum luminous intensity of navigation lights should be limited to avoid undue glare.

9. *Horizontal sectors.* (a)(i) In the forward direction, sidelights as fitted on the vessel must show the minimum required intensities. The intensities must decrease to reach practical cut-off between 1 degree and 3 degrees outside the prescribed sectors.

(ii) For sternlights and masthead lights and at 22.5 degrees abaft the beam for sidelights, the minimum required intensities shall be maintained over the arc of the horizon up to 5 degrees within the limits of the sectors prescribed in Rule 21. From 5 degrees within the prescribed sectors the intensity may decrease by 50 percent up to the prescribed limits; it shall decrease steadily to reach practical cut-off at not more than 5 degrees outside the prescribed limits.

(b) All-round lights shall be so located as not to be obscured by masts, topmasts or structures within angular sectors of more than 6 degrees, except anchor lights, which need not be placed at an impracticable height above the hull.

10. *Vertical sectors.* (a) The vertical sectors of electric lights, with the exception of lights on sailing vessels shall ensure that:

(i) At least the required minimum intensity is maintained at all angles from 5 degrees above to 5 degrees below the horizontal;

(ii) At least 60 percent of the required minimum intensity is maintained from 7.5 degrees above to 7.5 degrees below the horizontal.

(b) In the case of sailing vessels the vertical sectors of electric lights shall ensure that:

(i) At least the required minimum intensity is maintained at all angles from 5 degrees above to 5 degrees below the horizontal;

(ii) At least 50 percent of the required minimum intensity is maintained from 25 degrees above to 25 degrees below the horizontal.

(c) In the case of lights other than electric these specifications shall be met as closely as possible.

11. *Intensity of non-electric lights.* Non-electric lights shall so far as practicable comply with the minimum intensities, as specified in the Table given in Section 8 of this Annex.

12. *Manoeuvring light.* Notwithstanding the provisions of paragraph 2(f) of this Annex the manoeuvring light described in Rule 34(b) shall be placed in the same fore and aft vertical plane as the masthead light or lights and, where practicable, at a minimum height of 2 metres vertically above the forward masthead light, provided that it shall be carried not less than 2 metres vertically above or below the after masthead light. On a vessel where only one masthead light is carried the manoeuvring light, if fitted, shall be carried where it can best be seen, not less than 2 metres vertically apart from the masthead light.

13. *Approval.* The construction of lanterns and shapes and the installation of lanterns on board the vessel shall be to the satisfaction of the appropriate authority of the State where the vessel is registered.

ANNEX II

ADDITIONAL SIGNALS FOR FISHING VESSELS FISHING IN CLOSE PROXIMITY

1. *General.* The lights mentioned herein shall, if exhibited in pursuance of Rule 26(d), be placed where they can best be seen. They shall be at least 0.9 metre apart but at a lower level than lights prescribed in Rule 26 (b)(i) and (c)(i). The lights shall be visible all round the horizon at a distance of at least 1 mile but at a lesser distance than the lights prescribed by these Rules for fishing vessels.

2. *Signals for Trawlers.* (a) Vessels when engaged in trawling, whether using demersal or pelagic gear, may exhibit:

(i) When shooting their nets: two white lights in a vertical line;

(ii) When hauling their nets: one white light over one red light in a vertical line;

(iii) When the net has come fast upon an obstruction: two red lights in a vertical line.

(b) Each vessel engaged in pair trawling may exhibit:

(i) By night, a searchlight directed forward and in the direction of the other vessel of the pair;

(ii) When shooting or hauling their nets or when their nets have come fast upon an obstruction, the lights prescribed in 2(a) above.

3. *Signals for purse seiners.* Vessels engaged in fishing with purse seine gear may exhibit two yellow lights in a vertical line. These lights shall flash alternately every second and with equal light and occultation duration. These lights may be exhibited only when the vessel is hampered by its fishing gear.

ANNEX III

TECHNICAL DETAILS OF SOUND SIGNAL APPLIANCES

1. *Whistles.* (a) *Frequencies and range of audibility.*—The fundamental frequency of the signal shall lie within the range 70–700 Hz.

The range of audibility of the signal from a whistle shall be determined by those frequencies, which may include the fundamental and/or one or more higher frequencies, which lie within the range 180–700 Hz (±1 percent) and which provide the sound pressure levels specified in paragraph 1(c) below.

(b) *Limits of fundamental frequencies.* To ensure a wide variety of whistle characteristics, the fundamental frequency of a whistle shall be between the following limits:

(i) 70–200 Hz, for a vessel 200 metres or more in length;

(ii) 130–350 Hz, for a vessel 75 metres but less than 200 metres in length;

(iii) 250–700 Hz, for a vessel less than 75 metres in length.

(c) *Sound signal intensity and range of audibility.* A whistle fitted in a vessel shall provide, in the direction of maximum intensity of the whistle and at a distance of 1 metre from it, a sound pressure level in at least one ⅓rd-octave band within the range of frequencies 180–700 Hz (±1 percent) of not less than the appropriate figure given in the table below.

Length of vessel in meters	⅓-octave band level at 1 meter in dB referred to 2×10^{-5} N/m²	Audibility range in nautical miles
200 or more	143	2.0
75 but less than 200	138	1.5
20 but less than 75	130	1.0
Less than 20	120	0.5

The range of audibility in the table above is for information and is approximately the range at which a whistle may be heard on its forward axis with 90 percent probability in conditions of still air on board a vessel having average background noise level at the listening posts (taken to be 68 dB in the octave band centred on 250 Hz and 63 dB in the octave band centred on 500 Hz).

In practice the range at which a whistle may be heard is extremely variable and depends critically on weather conditions; the values given can be regarded as typical but under conditions of strong wind or high ambient noise level at the listening post the range may be much reduced.

(d) *Directional properties.* The sound pressure level of a directional whistle shall be not more than 4 dB below the sound pressure level on the axis at any direction in the horizontal plane within ±45 degrees of the axis. The sound pressure level at any other direction in the horizontal plane shall be not more than 10 dB below the sound pressure level on the axis, so that the range in any direction will be at least half the range on the forward axis. The sound pressure level shall be measured in that ⅓rd-octave band which determines the audibility range.

(e) *Positioning of whistles.* When a directional whistle is to be used as the only whistle on a vessel, it shall be installed with its maximum intensity directed straight ahead.

A whistle shall be placed as high as practicable on a vessel, in order to reduce interception of the emitted sound by obstructions and also to minimize hearing damage risk to personnel. The sound pressure level of the vessel's own signal at listening posts shall not exceed 110 dB (A) and so far as practicable should not exceed 100 dB (A).

(f) *Fitting of more than one whistle.* If whistles are fitted at a distance apart of more than 100 metres, it shall be so arranged that they are not sounded simultaneously.

(g) *Combined whistle systems.* If due to the presence of obstructions the sound field of a single whistle or of one of the whistles referred to in paragraph 1(f) above is likely to have a zone of greatly reduced signal level, it is recommended that a combined whistle system be fitted so as to overcome this reduction. For the purposes of the Rules a combined whistle system is to be regarded as a single whistle. The whistles of a combined system shall be located at a distance apart of not more than 100 metres and arranged to be sounded simultaneously. The frequency of any one whistle shall differ from those of the others by at least 10Hz.

2. *Bell or gong.* (a) *Intensity of signal.*—A bell or gong, or other device having similar sound characteristics shall produce a sound pressure level of not less than 110 dB at 1 metre.

(b) *Construction.* Bells and gongs shall be made of corrosion-resistant material and designed to give a clear tone. The diameter of the mouth of the bell shall be not less than 300 mm for vessels of more than 20 metres in length, and shall be not less than 200 mm

for vessels of 12 to 20 metres in length. Where practicable, a power-driven bell striker is recommended to ensure constant force but manual operation shall be possible. The mass of the striker shall be not less than 3 percent of the mass of the bell.

3. *Approval.* The construction of sound signal appliances, their performance and their installation on board the vessel shall be to the satisfaction of the appropriate authority of the State where the vessel is registered.

ANNEX IV

DISTRESS SIGNALS

1. The following signals, used or exhibited either together or separately, indicate distress and need of assistance:

(a) A gun or other explosive signal fired at intervals of about a minute;

(b) A continuous sounding with any fog-signalling apparatus;

(c) Rockets or shells, throwing red stars fired one at a time at short intervals;

(d) A signal made by radiotelegraphy or by any other signalling method consisting of the group . . .— — . .(SOS) in the Morse Code;

(e) A signal sent by radiotelephony consisting of the spoken word "Mayday";

(f) The International Code Signal of distress indicated by N.C.;

(g) A signal consisting of a square flag having above or below it a ball or anything resembling a ball;

(h) Flames on the vessel (as from a burning tar barrel, oil barrel, etc.)

(i) A rocket parachute flare or a hand flare showing a red light;

(j) A smoke signal giving off orange-coloured smoke;

(k) Slowly and repeatedly raising and lowering arms outstretched to each side;

(*l*) The radiotelegraph alarm signal;

(m) The radiotelephone alarm signal;

(n) Signals transmitted by emergency position-indicating radio beacons.

2. The use or exhibition of any of the foregoing signals except for the purpose of indicating distress and need of assistance and the use of other signals which may be confused with any of the above signals is prohibited.

3. Attention is drawn to the relevant sections of the International Code of Signals, the Merchant Ship Search and Rescue Manual and the following signals:

(a) A piece of orange-coloured canvas with either a black square and circle or other appropriate symbol (for identification from the air);

(b) A dye marker

EX. ORD. NO. 11964. IMPLEMENTATION OF CONVENTION ON THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Ex. Ord. No. 11964, Jan. 19, 1977, 42 F.R. 4327, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Section 301 of Title 3 of the United States Code, and as President of the United States of America and Commander-in-Chief of the Armed Forces, in order to provide for the coming into force on July 15, 1977, of the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (Senate Executive W, 93d Cong., 1st Sess.), it is hereby ordered as follows:

SECTION 1. (a) With respect to vessels of special construction or purpose, the Secretary of the Navy, for vessels of the Navy, and the Secretary of the Department in which the Coast Guard is operating, for all other vessels, shall determine and certify, in accord with Rule I of the International Regulations for Preventing Collisions at Sea, 1972, hereinafter referred to as the International Regulations, as to which such vessels cannot comply fully with the provisions of any of the International Regulations with respect to the number, positions, range or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signalling appliances, without interfering with the special function of the vessel.

(b) With respect to vessels for which a certification is issued, the Secretary issuing the certification shall certify as to such other provisions which are the closest possible compliance by that vessel with the International Regulations.

(c) Notice of any certification issued shall be published in the FEDERAL REGISTER.

SEC. 2. The Secretary of the Navy is authorized to promulgate special rules with respect to additional station or signal lights or whistle signals for ships of war or vessels proceeding under convoy, and the Secretary of the Department in which the Coast Guard is operating is authorized, to the extent permitted by law, including the provisions of Title 14 of the United States Code, to promulgate special rules with respect to additional station or signal lights for fishing vessels engaged in fishing as a fleet. In accord with Rule I of the International Regulations, the additional station or signal lights or whistle signals contained in the special rules shall be, as far as possible, such as they cannot be mistaken for any light or signal authorized by the International Regulations. Notice of such special rules for fishing vessels shall be published in the FEDERAL REGISTER.

SEC. 3. The Secretary of the Navy, for vessels of the Navy, and the Secretary of the Department in which the Coast Guard is operating, for all other vessels, are authorized to exempt, in accord with Rule 38 of the International Regulations, any vessel or class of vessels, the keel of which is laid, or which is at a corresponding stage of construction, before July 15, 1977, from full compliance with the International Regulations, provided that such vessel or class of vessels complies with the requirements of the International Regulations for Preventing Collisions at Sea, 1960. Notice of any exemption granted shall be published in the FEDERAL REGISTER.

SEC. 4. The Secretary of the Department in which the Coast Guard is operating is authorized, to the extent permitted by law, to promulgate such rules and regulations that are necessary to implement the provisions of the Convention and International Regulations. He shall cause to be published in the FEDERAL REGISTER any implementing regulations or interpretive rulings promulgated pursuant to this Order, and shall promptly publish in the FEDERAL REGISTER the full text of the International Regulations.

GERALD R. FORD.

PROCLAMATION OF JANUARY 19, 1977, RELATING TO THE CONVENTION ON THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

The proclamation set out below, together with the text of the International Regulations for Preventing Collisions at Sea, 1972, was published in the Federal Register on Mar. 31, 1977, 42 F.R. 17112. The text of the International Regulations for Preventing Collisions at Sea, 1972, are set out above.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Considering that: The Convention on the International Regulations for Preventing Collisions at Sea, 1972, done at London, October 20, 1972, as rectified by the Proces-Verbal of December 1, 1973, a certified copy of which Convention, in the English and French languages, is hereto annexed;

The Senate of the United States of America by its resolution of October 28, 1975, two-thirds of the Senators present concurring therein, gave its advice and consent to the Convention as rectified by the Proces-Verbal;

The Convention as rectified was duly accepted by the President of the United States of America on De-

cember 12, 1975, in pursuance of the advice and consent of the Senate;

The United States of America deposited its instrument of acceptance on November 23, 1976, in accordance with the provisions of Article IV of the Convention;

The Convention as rectified will enter into force for the United States of America on July 15, 1977;

Now, therefore, I, Gerald R. Ford, President of the United States of America, proclaim and make public the Convention as rectified, to the end that it shall be observed and fulfilled with good faith on and after July 15, 1977, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

In testimony whereof, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

Done at the city of Washington this nineteenth day of January in the year of our Lord one thousand nine hundred seventy-seven of the United States of America the two hundred first.

By the President:

GERALD R. FORD.

HENRY A. KISSINGER, *Secretary of State.*

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title.

§ 1603. Vessels subject to International Regulations

Except as provided in section 1604 of this title and subject to the provisions of section 1605 of this title, the International Regulations, as proclaimed under section 1602 of this title, shall be applicable to, and shall be complied with by—

(1) all vessels, public and private, subject to the jurisdiction of the United States, while upon the high seas or in waters connected therewith navigable by seagoing vessels, and

(2) all other vessels when on waters subject to the jurisdiction of the United States.

(Pub. L. 95–75, § 4, July 27, 1977, 91 Stat. 309.)

§ 1604. Vessels not subject to International Regulations; conflicts with laws and regulations of foreign states

(a) The International Regulations shall not be applicable to vessels while—

(1) in the harbors, rivers, and other inland waters of the United States, as defined in section 154 of this title,

(2) in the Great Lakes of North America and their connecting and tributary waters, as defined in section 241 of this title, nor while

(3) in the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, as defined in section 301 of this title.

(b) Whenever a vessel subject to the jurisdiction of the United States is in the territorial waters of a foreign state the International Regulations shall be applicable to, and shall be complied with by, that vessel to the extent that the laws and regulations of the foreign state are not in conflict therewith.

(Pub. L. 95–75, § 5, July 27, 1977, 91 Stat. 309.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title.

§ 1605. Navy and Coast Guard vessels of special construction or purposes

(a) Certification for alternative compliance

Any requirement of the International Regulations with respect to the number, position, range, or arc of visibility of lights, with respect to shapes, or with respect to the disposition and characteristics of sound-signaling appliances, shall not be applicable to a vessel of special construction or purpose, whenever the Secretary of the Navy, for any vessel of the Navy, or the Secretary of the department in which the Coast Guard is operating, for any other vessel of the United States, shall certify that the vessel cannot comply fully with that requirement without interfering with the special function of the vessel.

(b) Closest possible compliance by vessels covered by certification for alternative compliance

Whenever a certification is issued under the authority of subsection (a) of this section, the vessel involved shall comply with the requirement as to which the certification is made to the extent that the Secretary issuing the certification shall certify as the closest possible compliance by that vessel.

(c) Publication of certifications in Federal Register

Notice of the certifications issued pursuant to subsections (a) and (b) of this section shall be published in the FEDERAL REGISTER.

(Pub. L. 95–75, § 6, July 27, 1977, 91 Stat. 309.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title.

§ 1606. Special rules for ships of war, vessels proceeding under convoy, and fishing vessels engaged in fishing as a fleet

(a) The Secretary of the Navy is authorized to promulgate special rules with respect to additional station or signal lights or whistle signals for ships of war or vessels proceeding under convoy, and the Secretary of the department in which the Coast Guard is operating is authorized to promulgate special rules with respect to additional station or signal lights for fishing vessels engaged in fishing as a fleet.

(b) The additional station or signal lights or whistle signals contained in the special rules authorized under subsection (a) of this section shall be, as far as possible, such that they cannot be mistaken for any light or signal authorized by the International Regulations. Notice of such special rules shall be published in the FEDERAL REGISTER and, after the effective date specified in such notice, they shall have effect as if they were a part of the International Regulations.

(Pub. L. 95–75, § 7, July 27, 1977, 91 Stat. 310.)

§ 1607. Implementation by rules and regulations; authority to promulgate

The Secretary of the department in which the Coast Guard is operating is authorized to promulgate such reasonable rules and regulations as are necessary to implement the provisions of this chapter and the International Regulations proclaimed hereunder.

(Pub. L. 95–75, § 8, July 27, 1977, 91 Stat. 310.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1608 of this title.

§ 1608. Civil penalties

(a) Liability of vessel operator for violations

Whoever operates a vessel, subject to the provisions of this chapter, in violation of this chapter or of any regulation promulgated pursuant to section 1607 of this title, shall be liable to a civil penalty of not more than $500 for each such violation.

(b) Liability of vessel for violations; seizure of vessel

Every vessel subject to the provisions of this chapter, other than a public vessel being used for noncommercial purposes, which is operated in violation of this chapter or of any regulation promulgated pursuant to section 1607 of this title, shall be liable to a civil penalty of $500 for each such violation, for which penalty the vessel may be seized and proceeded against in the district court of the United States of any district within which such vessel may be found.

(c) Assessment of penalties; notice; opportunity for hearing; remission, mitigation, and compromise of penalty; action for collection

The Secretary of the department in which the Coast Guard is operating may assess any civil penalty authorized by this section. No such penalty may be assessed until the person charged, or the owner of the vessel charged, as appropriate, shall have been given notice of the violation involved and an opportunity for a hearing. For good cause shown, the Secretary may remit, mitigate, or compromise any penalty assessed. Upon the failure of the person charged, or the owner of the vessel charged, to pay an assessed penalty, as it may have been mitigated or compromised, the Secretary may request the Attorney General to commence an action in the appropriate district court of the United States for collection of the penalty as assessed, without regard to the amount involved, together with such other relief as may be appropriate.

(Pub. L. 95–75, § 9, July 27, 1977, 91 Stat. 310.)

CHAPTER 31—OCEAN POLLUTION RESEARCH AND DEVELOPMENT AND MONITORING PLANNING [NEW]

Sec.
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§ 1701. Findings and Purposes

(a) The Congress finds and declares the following:

(1) Man's activities in the marine environment can have a profound short-term and long-term impact on such environment and greatly affect ocean and coastal resources therein.

(2) There is a need to establish a comprehensive Federal plan for ocean pollution research and development and monitoring, with particular attention being given to the inputs, fates, and effects of pollutants in the marine environment.

(3) Man will increasingly be forced to rely on ocean and coastal resources as other resources are depleted. Our ability to protect, preserve, develop, and utilize these ocean and coastal resources is directly related to our understanding of the effects which ocean pollution has upon such resources.

(4) Numerous departments, agencies, and instrumentalities of the Federal Government sponsor, support, or fund activities relating to ocean pollution research and development and monitoring. However, such activities are often uncoordinated and can result in unnecessary duplication.

(5) Better planning and more effective use of available funds, personnel, vessels, facilities, and equipment is the key to effective Federal action regarding ocean pollution research and development and monitoring.

(b) It is therefore the purpose of the Congress in this chapter—

(1) to establish a comprehensive 5-year plan for Federal ocean pollution research and development and monitoring programs in order to provide planning for, coordination of, and dissemination of information with respect to such programs within the Federal Government;

(2) to develop the necessary base of information to support, and to provide for, the rational, efficient, and equitable utilization, conservation, and development of ocean and coastal resources; and

(3) to designate the National Oceanic and Atmospheric Administration as the lead Federal agency for preparing the plan referred to in paragraph (1) and to require the Administration to carry out a comprehensive program of ocean pollution research and development and monitoring under the plan.

(Pub. L. 95–273, § 2, May 8, 1978, 92 Stat. 228.)

SHORT TITLE

Section 1 of Pub. L. 95–273 provided: "That this Act [enacting this chapter] may be cited as the 'National Ocean Pollution Research and Development and Monitoring Planning Act of 1978'."

§ 1702. Definitions

As used in this chapter, unless the context otherwise requires—

(1) The term "Administration" means the National Oceanic and Atmospheric Administration.

(2) The term "Administrator" means the Administrator of the Administration.

(3) The term "Director" means the Director of the Office of Science and Technology Policy in the Executive Office of the President.

(4) The term "marine environment" means the coastal zone (as defined in section 1453(1) of title 16); the seabed, subsoil, and waters of the territorial sea of the United States; the waters of any zone over which the United States asserts exclusive fishery management authority; the waters of the high seas; and the seabed and subsoil of and beyond the Outer Continental Shelf.

(5) The term "ocean and coastal resource" has the same meaning as is given such term in section 1122(7) of this title.

(6) The term "ocean pollution" means any short-term or long-term change in the marine environment.

(Pub. L. 95-273, § 3, May 8, 1978, 92 Stat. 228.)

§ 1703. Comprehensive Federal Plan relating to ocean pollution

(a) Lead Agency for Plan

The Administrator, in consultation with the Director and other appropriate Federal officials having authority over ocean pollution research and development and monitoring programs, shall prepare, in accordance with this section, a comprehensive 5-year plan (hereinafter in this chapter referred to as the "Plan") for the overall Federal effort in ocean pollution research and development and monitoring. The Plan shall be prepared and submitted to Congress and the President on or before February 15, 1979, and a revision of the Plan shall be prepared and so submitted by February 15 of each odd-numbered year occurring after 1979.

(b) Content of Plan

The Plan shall contain, but need not be limited to, the following elements:

(1) Assessment and ordering of National needs and problems

The Plan shall—

(A) identify those national needs and problems, which relate to specific aspects of ocean pollution (including, but not limited to, the effects of ocean pollution on the economic, social, and environmental values of ocean and coastal resources), which exist and will arise during the Plan period;

(B) establish the priority, based upon the value and cost of information which can be obtained from specific ocean pollution research and development and monitoring programs and projects, in which such needs should be met, and such problems should be solved, during the Plan period; and

(C) contain, if pursuant to the preparation of any revision of the Plan required under subsection (a) of this section it is determined that any national need or problem or priority set forth in the preceding version of the Plan should be changed, a detailed explanation of the reasons for the change.

(2) Existing Federal capability

The Plan shall contain—

(A) a detailed listing of all existing Federal programs relating to ocean pollution research and development and monitoring (including, but not limited to, general research on marine ecosystems), which listing shall include, with respect to each such program—

(i) a catalogue of the Federal personnel, facilities, vessels and other equipment currently assigned to, or used for, the program, and

(ii) a detailed description of the existing goals and costs of the program, including, but not limited to, a categorical breakdown of the funds currently being expended, and planned to be expended, to conduct the program; and

(B) an analysis of the extent to which each such program, if continued on the basis and at the funding level described pursuant to subparagraph (A)(ii), will assist in meeting the priorities set forth pursuant to paragraph (1)(B) during the Plan period.

(3) Policy recommendations

If it is determined, as a result of the analysis required to be made under paragraph (2)(B), that the priorities set forth pursuant to paragraph (1)(B) will not be adequately met during the Plan period using the existing Federal capability described pursuant to paragraph (2)(A), the Plan shall contain those recommendations for changes in the overall Federal effort in ocean pollution research and development and monitoring which would ensure that those priorities are adequately met during the Plan period. Such recommendations may include, but need not be limited to—

(A) changes in the goals to be achieved under various existing Federal ocean pollution research and development and monitoring programs;

(B) suggested increases and decreases in the funding for any such existing program consistent with the extent to which such program contributes to the meeting of such priorities;

(C) specific proposals for interagency cooperation in cases in which the pooling of the resources of two or more Federal departments, agencies, or instrumentalities under existing programs could further efforts to meet such priorities or would eliminate duplication of effort; and

(D) suggested legislation to establish new Federal programs considered to be necessary if such priorities are to be met.

(4) Budget review

The Plan shall contain a description of actions taken by the Administrator and the Director to coordinate the budget review process for the purpose of ensuring interagency

coordination and cooperation in (A) the carrying out of Federal ocean pollution research and development and monitoring programs; and (B) eliminating unnecessary duplication of effort among such programs.

(c) Plan period

For purposes of this section, the term "Plan period" means—

(1) with respect to the Plan as required to be submitted on February 15, 1979, the period of 5 fiscal years beginning on October 1, 1978; and

(2) with respect to each revision of the Plan, the period of 5 fiscal years beginning on October 1 of the year before the year in which the revision is required to be prepared under subsection (a) of this section.

(Pub. L. 95-273, § 4, May 8, 1978, 92 Stat. 229.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1704, 1705 of this title.

§ 1704. Comprehensive ocean pollution program in the Administration

(a) Establishment of program

The Administrator shall establish within the Administration a comprehensive, coordinated, and effective ocean pollution research and development and monitoring program. The Administrator shall carry out all projects and activities under the program in a manner consistent with the Plan.

(b) Content of the program

The program required to be established under subsection (a) of this section shall include, but not be limited to—

(1) all projects and activities relating to ocean pollution research and development and monitoring for which the Administrator has responsibility under provisions of law (including, but not limited to, title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441-1444)) other than paragraph (2);

(2) such projects and activities addressed to the priorities set forth in the Plan pursuant to section 1703(b)(1)(B) of this title that can be appropriately conducted within the Administration; and

(3) the provision of financial assistance under section 1705 of this title.

(Pub. L. 95-273, § 5, May 8, 1978, 92 Stat. 230.)

REFERENCES IN TEXT

The Marine Protection, Research, and Sanctuaries Act of 1972, referred to in subsec. (b)(1), is Pub. L. 92-532, Oct. 23, 1972, 86 Stat. 1052, as amended. Title II of the Marine Protection, Research, and Sanctuaries Act of 1972 is classified generally to subchapter II (§ 1441 et seq.) of chapter 27 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1401 of this title and Tables.

§ 1705. Financial assistance

(a) Grants and contracts

The Administrator may provide financial assistance in the form of grants or contracts for research and development and monitoring projects or activities which are needed to meet priorities set forth in the Plan pursuant to section 1703(b)(1)(B) of this title, if such priorities are not being adequately addressed by any Federal department, agency, or instrumentality.

(b) Applications for assistance

Any person, including institutions of higher education and departments, agencies, and instrumentalities of the Federal Government or of any State or political subdivision thereof, may apply for financial assistance under this section for the conduct of projects and activities described in subsection (a) of this section, and, in addition, specific proposals may be invited. Each application for financial assistance shall be made in writing in such form and manner, and contain such information, as the Administrator may require. The Administrator may enter into contracts under this section without regard to section 5 of title 41.

(c) Existing programs

The projects and activities supported by grants or contracts made or entered into under this section shall, to the maximum extent practicable, be administered through existing Federal programs (including, but not limited to, the National Sea Grant Program) concerned with ocean pollution research and development and monitoring.

(d) Action by Administrator

The Administrator shall act upon each application for a grant or contract under this section within six months after the date on which all required information is received by the Administrator from the applicant. Each grant made or contract entered into under this section shall be subject to such terms and conditions as the Secretary deems necessary in order to protect the interests of the United States. The total amount paid pursuant to any such grant or contract may, in the discretion of the Administrator, be up to 100 percent of the total cost of the project or activity involved.

(e) Records

Each recipient of financial assistance under this section shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or activity in connection with which such assistance was given or used, the amount of that portion of the cost of the project or activity which was supplied by other sources, and such other records as will facilitate an effective audit. Such records shall be maintained for three years after the completion of such project or activity. The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of receipts which, in the opinion of the Administrator or of the Comptroller General, may be related or pertinent to such financial assistance.

(Pub. L. 95-273, § 6, May 8, 1978, 92 Stat. 231.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1704 of this title.

§ 1706. Interagency cooperation

The head of each department, agency, or other instrumentality of the Federal Government which is engaged in or concerned with, or which has authority over, programs relating to ocean pollution research and development and monitoring—

(1) shall cooperate with the Administrator in carrying out the purposes of this chapter;

(2) may, upon written request from the Administrator or Director, make available to the Administrator or Director, on a reimbursable basis or otherwise, such personnel (with their consent and without prejudice to their position and rating), services, or facilities as may be necessary to assist the Administrator or the Director to achieve the purposes of this chapter; and

(3) shall, upon a written request from the Administrator or Director, furnish such data or other information as the Administrator or Director deems necessary to fulfill the purposes of this chapter.

(Pub. L. 95-273, § 7, May 8, 1978, 92 Stat. 232.)

§ 1707. Dissemination of information

The Administrator shall ensure that the results, findings, and information regarding ocean pollution research and development and monitoring programs conducted or sponsored by the Federal Government be disseminated in a timely manner, and in useful forms, to relevant departments, agencies, and instrumentalities of the Federal Government, and to other persons having an interest in ocean pollution research and development and monitoring.

(Pub. L. 95-273, § 8, May 8, 1978, 92 Stat. 232.)

§ 1708. Effect on other laws

Nothing in this chapter shall be construed to amend, restrict, or otherwise alter the authority of any Federal department, agency, or instrumentality, under any law, to undertake research and development and monitoring relating to ocean pollution.

(Pub. L. 95-273, § 9, May 8, 1978, 92 Stat. 232.)

§ 1709. Authorization of appropriations

There are authorized to be appropriated to the Administration for the purposes of carrying out this chapter not to exceed $5,000,000 for the fiscal year ending September 30, 1979.

(Pub. L. 95-273, § 10, May 8, 1978, 92 Stat. 232.)

CHAPTER 32—INLAND WATERWAYS TRUST FUND [NEW]

Sec.
1801. Establishment of Inland Waterways Trust Fund.
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(b) Transfer to trust fund of amounts equivalent to certain taxes.
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1802. Trust fund available for expenditures for navigation construction and rehabilitation projects on inland waterways.
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(g) Inland waterway user taxes and charges defined.
(h) Report.
(i) Authorization of appropriations.
1804. Inland and intracoastal waterways of the United States.

§ 1801. Establishment of Inland Waterways Trust Fund

(a) Creation of trust fund

There is established in the Treasury of the United States a trust fund to be known as the "Inland Waterways Trust Fund" (hereinafter in this chapter referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

(b) Transfer to trust fund of amounts equivalent to certain taxes

(1) In general

There are hereby appropriated to the Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in this section referred to as the "Secretary") to be equivalent to the amounts of the taxes received in the Treasury under section 4042 of title 26 (relating to tax on fuel used in commercial transportation on inland waterways).

(2) Method of transfer

The amounts appropriated by paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the amounts referred to in paragraph (1) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) Management of trust fund

(1) Report

It shall be the duty of the Secretary to hold the Trust Fund, and to report to the Congress each year ending on or after September 30, 1981, on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the fiscal year and the next 5 fiscal years after the fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) Investment

(A) In general

It shall be the duty of the Secretary to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price.

(B) Sale of obligations

Any obligation acquired by the Trust Fund may be sold by the Secretary at the market price.

(C) Interest; proceeds from sales and redemptions

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(Pub. L. 95-502, title II, § 203, Oct. 21, 1978, 92 Stat. 1697.)

SHORT TITLE

For citation of title II of Pub. L. 95-502 as the "Inland Waterways Revenue Act of 1978", see section 201 of Pub. L. 95-502, set out as a Short Title of 1978 Amendment note under section 1 of Title 26, Internal Revenue Code.

§ 1802. Trust fund available for expenditures for navigation construction and rehabilitation projects on inland waterways

(a) In general

Amounts in the Trust Fund shall be available, as provided by appropriations Acts, for making construction and rehabilitation expenditures for navigation on the inland and intracoastal waterways of the United States described in section 1804 of this title. No amount may be appropriated out of the Trust Fund unless the law authorizing the expenditure for which the amount is appropriated explicitly provides that the appropriation is to be made out of the Trust Fund.

(b) Expenditures must be otherwise authorized by law

Nothing in this section shall be deemed to authorize any program, project, or other activity not otherwise authorized by law.

(Pub. L. 95-502, title II, § 204, Oct. 21, 1978, 92 Stat. 1698.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1804 of this title.

§ 1803. Study with respect to inland waterway user taxes and charges

(a) Study directed

The Secretary of Transportation, and the Secretary of Commerce, in consultation with the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Energy, the Attorney General of the United States, the Secretary of the Army, the Chairman of the Water Resources Council, and the Director of the Office of Management and Budget, shall—

(1) make a full and complete study with respect to inland waterway user taxes and charges, and

(2) make findings and policy recommendations with respect thereto.

Such study shall include (but shall not be limited to) a consideration of the matters listed in subsections (b), (c), (d), (e), and (f) of this section.

(b) Considerations relating to the taxing mechanism

(1) The extent to which the Federal Government should seek to recover some or all of Federal expenditures for the benefit of inland waterway transportation from the users of the facilities for which such expenditures are made.

(2) The various forms of inland waterway user taxes and charges which could be established.

(3) The various methods of collecting inland waterway user taxes and charges, and the administrative costs of such taxes and charges.

(4) The classes and categories of users and other persons on whom inland waterway user taxes and charges should be imposed.

(5) The waterways of the United States (including the Great Lakes, deep draft channels, and coastal ports) which should be included in any system of user taxes and charges, together with the economic effects of such taxes and charges.

(6) The use of revenues derived from inland waterway user taxes and charges, including consideration of changes in, or alternatives to, the Trust Fund mechanism.

(c) Considerations relating to economic effects

The economic effects of waterway user taxes and charges on—

(1) Carriers and users

On—

(A) carriers and shippers using the inland waterways, and

(B) users (including ultimate consumers) of commodities which are transported on the inland waterways.

(2) Regions, etc.

On—

(A) existing investment in industrial plants, agricultural interests, and commercial enterprises, and on related employment, in regions of the country served by inland water transportation directly or in combination with other modes, and

(B) future economic growth prospects in such regions, including anticipated shifts of industry and employment to other areas together with an evaluation of effects on regional economies and their development, including consistency with Federal policies as set forth in other legislation.

(3) Small business and industrial concentration and competition

On—

(A) small business enterprise, and

(B) industrial concentration and competition, both within the transportation industry and in any line of commerce (within the meaning of the antitrust laws).

(4) Competitors

On the freight rates charged by other modes of transportation and the extent of short-term and long-term diversion of traffic from the inland waterways to such other modes. In considering such diversion of traffic, there shall also be considered the effects of such diversion on—

(A) the development of alternative sources of supply and on alternative modes of transportation and alternative routing to market,

(B) the comparative safety of the handling and transportation of hazardous materials, and

(C) the comparative energy efficiency of the modes and routes of the transportation involved.

(5) Prices

On prices of commodities shipped by inland waterways and by competing modes, including the costs of energy materials and the effects on electric power rates.

(6) Balance of payments

On the balance of payments of the United States based on our international trade.

(d) Considerations relating to economic feasibility of waterway improvement projects; level of benefits from waterway expenditures

(1) The effects of inland waterway user taxes and charges on the economic feasibility of inland waterway improvement projects.

(2) The comparative levels of benefits received from Federal expenditures on inland waterways for—

(A) commercial uses, and

(B) other uses, including (but not limited to) recreation, reclamation, water supply, low-flow augmentation, fish and wildlife enhancement, hydroelectric power, flood control, and irrigation uses.

(e) Considerations relating to federal assistance

(1) The extent of past, present, and expected future Federal assistance to the several modes of freight transportation. Such consideration shall include an evaluation and comparison of the public benefits resulting from such assistance to each of the several transportation modes in terms of adequacy, efficiency, and economy of service, safety, technological progress, and energy conservation. The Federal assistance considered under this paragraph shall include all forms of such assistance, such as tax advantages, direct grants, rate adjustments for improvement purposes, assumption of pension fund liabilities, loans, guarantees, capital participation, revenues from land grants, and provision of right-of-way operation, maintenance, and improvement.

(2) The competitive effects of past, present, and expected future Federal expenditures on inland waterways on competitive modes of transportation.

(3) The need for Federal assistance to agricultural, industrial, and other interests affected by inland waterway user taxes and charges.

(f) Considerations relating to policy and future development

The effects of inland waterway user taxes and charges on—

(1) The achievement of the objectives of the National Transportation Policy as set forth in section 10101 of title 49.

(2) The expansion and improvement of the inland waterways determined to be necessary by the Secretary of the Army under section 158 of the Water Resources Development Act of 1976 (Public Law 94-587) or estimated to be necessary under paragraph (3).

(3) The requirements of the Nation through the year 2000 for transportation service, the portion thereof which should be provided by inland waterway carriers, and an estimate of the expansion and improvement of inland waterway capacity necessary to meet such requirements.

(g) Inland waterway user taxes and charges defined

For purposes of this section, the term "inland waterway user taxes and charges" means taxes imposed on the use of the inland and intracoastal waterways of the United States and all alternatives to such taxes.

(h) Report

Not later than September 30, 1981, the Secretary of Transportation shall transmit to Congress a final report of the study required by this section, together with his findings and recommendations (including necessary legislation) and the findings and recommendations of the Secretary of Commerce, the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Energy, the Attorney General of the United States, the Secretary of the Army, the Chairman of the Water Resources Council, and the Director of the Office of Management and Budget.

(i) Authorization of appropriations

There are hereby authorized to be appropriated from time to time to the Secretary of Transportation such sums, not to exceed $8,000,000 in the aggregate, as may be necessary to carry out the study required by this section.

(Pub. L. 95-502, title II, § 205, Oct. 21, 1978, 92 Stat. 1698.)

REFERENCES IN TEXT

The antitrust laws, referred to in subsec. (c)(3)(B), are classified generally to chapter 1 (§ 1 et seq.) of Title 15, Commerce and Trade.

CODIFICATION

In subsec. (f)(1), "section 10101 of title 49" was substituted for "the preamble to the Transportation Act of 1940" on authority of section 3(b) of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation.

Section 158 of the Water Resources Development Act of 1976 (Public Law 94-587), referred to in subsec. (f)(2), is section 158 of Pub. L. 94-587, Oct. 22, 1976, 90 Stat. 2933, which is set out as a note under section 540 of this title.

§ 1804. Inland and intracoastal waterways of the United States

For purposes of section 4042 of title 26 (relating to tax on fuel used in commercial transpor-

tation on inland waterways) and for purposes of section 1802 of this title, the following inland and intracoastal waterways of the United States are described in this section:

(1) Alabama-Coosa Rivers: From junction with the Tombigbee River at river mile (hereinafter referred to as RM) 0 to junction with Coosa River at RM 314.

(2) Allegheny River: From confluence with the Monongahela River to form the Ohio River at RM 0 to the head of the existing project at East Brady, Pennsylvania, RM 72.

(3) Apalachicola-Chattahoochee and Flint Rivers: Apalachicola River from mouth at Apalachicola Bay (intersection with the Gulf Intracoastal Waterway) RM 0 to junction with Chattachoochee[1] and Flint Rivers at RM 107.8. Chattachoochee[1] River from junction with Apalachicola and Flint Rivers at RM 0 to Columbus, Georgia, at RM 155 and Flint River, from junction with Apalachicola and Chattahoochee Rivers at RM 0 to Bainbridge, Georgia, at RM 28.

(4) Arkansas River (McClellan-Kerr Arkansas River Navigation System): From junction with Mississippi River at RM 0 to port of Catoosa, Oklahoma, at RM 448.2.

(5) Atchafalaya River: From RM 0 at its intersection with the Gulf Intracoastal Waterway at Morgan City, Louisiana, upstream to junction with Red River at RM 116.8.

(6) Atlantic Intracoastal Waterway: Two inland water routes approximately paralleling the Atlantic coast between Norfolk, Virginia, and Miami, Florida, for 1,192 miles via both the Albermarle and Chesapeake Canal and Great Dismal Swamp Canal routes.

(7) Black Warrior-Tombigbee-Mobile Rivers: Black Warrior River System from RM 2.9, Mobile River (at Chickasaw Creek) to confluence with Tombigbee River at RM 45. Tombigbee River (to Demopolis at RM 215.4) to port of Birmingham, RM's 374–411 and upstream to head of navigation on Mulberry Fork (RM 429.6), Locust Fork (RM 407.8), and Sipsey Fork (RM 430.4).

(8) Columbia River (Columbia-Snake Rivers Inland Waterways): From The Dalles at RM 191.5 to Pasco, Washington (McNary Pool), at RM 330, Snake River from RM 0 at the mouth to RM 231.5 at Johnson Bar Landing, Idaho.

(9) Cumberland River: Junction with Ohio River at RM 0 to head of navigation, upstream to Carthage, Tennessee, at RM 313.5.

(10) Green and Barren Rivers: Green River from junction with the Ohio River at RM 0 to head of navigation at RM 149.1.

(11) Gulf Intracoastal Waterway: From St. Mark's River, Florida, to Brownsville, Texas, 1,134.5 miles.

(12) Illinois Waterway (Calumet-Sag Channel): From the junction of the Illinois River with the Mississippi River RM 0 to Chicago Harbor at Lake Michigan, approximately RM 350.

(13) Kanawha River: From junction with Ohio River at RM 0 to RM 90.6 at Deepwater, West Virginia.

(14) Kaskaskia River: From junction with the Mississippi River at RM 0 to RM 36.2 at Fayetteville, Illinois.

(15) Kentucky River: From junction with Ohio River at RM 0 to confluence of Middle and North Forks at RM 258.6.

(16) Lower Mississippi River: From Baton Rouge, Louisiana, RM 233.9 to Cairo, Illinois, RM 953.8.

(17) Upper Mississippi River: From Cairo, Illinois, RM 953.8 to Minneapolis, Minnesota, RM 1,811.4.

(18) Missouri River: From junction with Mississippi River at RM 0 to Sioux City, Iowa, at RM 734.8.

(19) Monongahela River: From junction with Allegheny River to form the Ohio River at RM 0 to junction of the Tygart and West Fork Rivers, Fairmont, West Virginia, at RM 128.7.

(20) Ohio River: From junction with the Mississippi River at RM 0 to junction of the Allegheny and Monongahela Rivers at Pittsburgh, Pennsylvania, at RM 981.

(21) Ouachita-Black Rivers: From the mouth of the Black River at its junction with the Red River at RM 0 to RM 351 at Camden, Arkansas.

(22) Pearl River: From junction of West Pearl River with the Rigolets at RM 0 to Bogalusa, Louisiana, RM 58.

(23) Red River: From RM 0 to the mouth of Cypress Bayou at RM 236.

(24) Tennessee River: From junction with Ohio River at RM 0 to confluence with Holstein and French Rivers at RM 652.

(25) White River: From RM 9.8 to RM 255 at Newport, Arkansas.

(26) Willamette River: From RM 21 upstream of Portland, Oregon, to Harrisburg, Oregon, at RM 194.

(Pub. L. 95–502, title II, § 206, Oct. 21, 1978, 92 Stat. 1700.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1802 of this title; title 26 section 4042.

[1] So in original. Probably should be "Chattahoochee".